UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW HAMPSHIRE

CONSERVATION LAW FOUNDATION, INC. Plaintiff, v. SCHNITZER STEEL INDUSTRIES, INC.; PROLERIZED NEW ENGLAND, LLC; JOINT VENTURE OPERATIONS, INC.; PROLERIDE TRANSPORT SYSTEMS, INC.; and MAINE METAL RECYCLING, INC., Defendants	)	Case No. **COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF AND CIVIL PENALTIES**

INTRODUCTION

1. This action is a citizen suit brought under Section 505 of the Federal Water Pollution Control Act ("Clean Water Act" or "CWA,"), 33 U.S.C. § 1365(a), to address Clean Water Act violations at three scrap metal facilities: (1) Schnitzer Northeast Poplar Avenue Facility, located at 14 Poplar Avenue in Concord, New Hampshire 03301 (the "Concord-Poplar Facility"); (2) Schnitzer Northeast Sandquist Street Facility, located at 25 Sandquist Street in Concord, New Hampshire 03301 (the "Concord-Sandquist Facility"); and (3) Schnitzer Northeast Allard Drive Facility, located at 200 Allard Drive in Manchester, New Hampshire 03103 (the "Manchester Facility") (collectively, the "Facilities").

2. The Facilities are owned and operated by Schnitzer Steel Industries, Inc. and/or its subsidiaries Prolerized New England, LLC doing business as Schnitzer Northeast; Joint Venture Operations, Inc.; Proleride Transport Systems, Inc.; Maine Metal Recycling, Inc., their agents, and directors (collectively, "Schnitzer" or "Defendants"). Schnitzer is discharging pollutants

including heavy metals from these three facilities into receiving waters that include the Merrimack River. Schnitzer's discharges have been subject to the 2015 and 2021 Multi-Sector General Permits for Stormwater Discharges Associated with Industrial Activity (the "2015 MSGP" and the "2021 MSGP," collectively, the "MSGPs"). Schnitzer has discharged, and continues to discharge, stormwater associated with its industrial activities into waters of the United States in violation of the MSGPs by: (1) failing to take required corrective actions; (2) failing to follow required procedures for minimizing pollutant discharges; (3) contributing to the receiving waters' failure to meet water quality standards and their impairments; and (4) failing to comply with monitoring and reporting requirements.

3. Conservation Law Foundation ("CLF") seeks declaratory judgment, injunctive relief, and other relief with respect to the Facilities' violations of the MSGPs, Section 301(a) of the Clean Water Act, 33 U.S.C. § 1311(a), and applicable regulations.

JURISDICTION AND VENUE

4. Plaintiff brings this civil suit under the citizen suit provision of Section 505 of the Clean Water Act, 33 U.S.C. § 1365.

5. This Court has subject matter jurisdiction over the parties and this action pursuant to Section 505(a)(1) of the Clean Water Act, 33 U.S.C. § 1365(a)(1); 28 U.S.C. § 1331 (an action arising under the Constitution and laws of the United States); and 28 U.S.C. §§ 2201 and 2202 (declaratory judgment).

6. On December 20, 2021, Plaintiff notified Schnitzer and its agents of its intention to file suit for violations of the Clean Water Act, in compliance with the statutory notice requirements of Section 505(b)(1)(A) of the Clean Water Act, 33 U.S.C. § 1365(b)(1)(A), and the corresponding regulations located at 40 C.F.R. § 135.2. A true and accurate copy of Plaintiff's

Notice Letter ("Notice Letter") is appended as Exhibit 1. The Notice Letter is incorporated by reference herein.

7. Each Defendant received the Notice Letter. A copy of each return receipt is attached as Exhibit 2.

8. Plaintiff also sent copies of the Notice Letter to the Administrator of the United States Environmental Protection Agency ("EPA"), the Acting Regional Administrator of EPA Region 1, the Citizen Suit Coordinator, and the New Hampshire Department of Environmental Services ("NH DES").

9. Each of the addressees identified in the preceding paragraph received the Notice Letter. A copy of each return receipt is attached as Exhibit 3.

10. More than sixty days have elapsed since Plaintiff mailed its Notice Letter, during which time neither EPA nor the State of New Hampshire has commenced an action to redress the violations alleged in this Complaint. 33 U.S.C. § 1365(b)(1)(B).

11. The Clean Water Act violations alleged in the Notice Letter are of a continuing nature, ongoing, or reasonably likely to re-occur. The Defendants remain in violation of the Clean Water Act.

12. Venue is proper in the United States District Court for the District of New Hampshire pursuant to Section 505(c)(1) of the Clean Water Act, 33 U.S.C. § 1365(c)(1), because the sources of the violations are located within this judicial district.

PARTIES

Plaintiff

13. Plaintiff, Conservation Law Foundation ("CLF"), is a nonprofit, member-supported, regional environmental advocacy organization dedicated to protecting New England's environment.

14. CLF has a long history of working to protect the health of New England's water resources, including addressing sources of industrial stormwater pollution.

15. CLF has over 6,300 members, including over 750 members in New Hampshire. CLF's members use and enjoy the waters of New Hampshire, including the Merrimack River, for drinking water and for recreational and aesthetic purposes, including but not limited to boating, swimming, fishing, and observing wildlife. CLF's members use and enjoy the South End Marsh Wetland Complex for recreational and aesthetic purposes, including birdwatching.

16. CLF's members include individuals who live and spend time near the Merrimack River and the South End Marsh Wetland Complex. CLF's members have used and enjoyed the Merrimack River and the South End Marsh Wetland Complex downstream from Defendants' facilities for recreational purposes, including swimming, rowing, kayaking, birdwatching, and observing wildlife; as well as for aesthetic purposes.

17. CLF's members include individuals who live in the Merrimack River Watershed and currently source their drinking water from the Merrimack River.

18. CLF's members include individuals who have been and continue to be directly and adversely affected by the degradation of water quality in the Merrimack River and the South End Marsh Wetland Complex.

19. CLF's members are harmed by stormwater discharge of aluminum, copper, iron, lead, zinc, total suspended solids, and other pollutants to the Merrimack River and the South End Marsh Wetland Complex from Defendants' facilities. Schnitzer's stormwater discharge impairs the recreational and aesthetic uses of the Merrimack River and the South End Marsh Wetland Complex by harming fish, birds, and other wildlife, contributing to unpleasant scum, foam, and/or odor, increasing toxic pollution, and reducing the enjoyment of CLF's members.

Defendants

20. Defendant Schnitzer Steel Industries, Inc. ("Schnitzer Steel") is a corporation incorporated under the laws of Oregon.

21. Defendant Schnitzer Steel is the parent company of Prolerized New England, LLC doing business as Schnitzer Northeast ("Prolerized"); Joint Venture Operations, Inc. ("Joint Venture"); Proleride Transport Systems, Inc. ("Proleride"); and Maine Metal Recycling, Inc. ("Maine Metal").

22. Defendant Schnitzer Steel has control over its subsidiaries Prolerized, Joint Venture, Proleride, and Maine Metal.

23. Defendant Schnitzer Steel is liable for the Clean Water Act violations of Prolerized, Joint Venture, Proleride, and Maine Metal.

24. Prolerized is a corporation incorporated under the laws of Delaware.

25. Joint Venture is a corporation incorporated under the laws of Delaware.

26. Proleride is a corporation incorporated under the laws of Delaware.

27. Maine Metal is a corporation incorporated under the laws of Maine.

28. Schnitzer Steel, its subsidiary Prolerized, and Prolerized's managers (Joint Venture, Proleride, and Maine Metal) own and/or operate the Facilities and have owned and/or operated them since at least 2016.

29. Schnitzer Steel, Prolerized, Joint Venture, Proleride, and Maine Metal are responsible for ensuring that the Facilities operate in compliance with the Clean Water Act.

30. Defendants Schnitzer Steel Industries, Inc.; Prolerized New England, LLC; Joint Venture Operations, Inc.; Proleride Transport Systems, Inc.; and Maine Metal Recycling, Inc. are all persons as defined by Section 502(5) of the Clean Water Act, 33 U.S.C. 1362(5).

STATUTORY AND REGULATORY BACKGROUND

The Clean Water Act and the MSGP

31. The objective of the Clean Water Act is "to restore and maintain the chemical, physical and biological integrity of the Nation's waters." 33 U.S.C. § 1251(a) (1972).

32. The Clean Water Act prohibits the addition of any pollutant to navigable waters from any point source except as authorized by a National Pollutant Discharge Elimination System ("NPDES") permit applicable to that point source. 33 U.S.C. §§ 1311(a) and 1342.

33. Under the Clean Water Act's implementing regulations, the "discharge of a pollutant" is defined as "[a]ny addition of any 'pollutant' or combination of pollutants to 'waters of the United States' from any 'point source.'" 40 C.F.R. § 122.2. *See also* 33 U.S.C. § 1362(12).

34. A "pollutant" is any "solid waste," "chemical wastes, biological materials," "wrecked or discarded equipment, rock, sand," and "industrial . . . waste" discharged into water. 33 U.S.C. § 1362(6).

35. The Clean Water Act defines navigable waters as "the waters of the United States, including the territorial seas." 33 U.S.C. § 1362(7). "Waters of the United States" are defined by EPA regulations to include, *inter alia*, all tributaries to interstate waters. See 40 C.F.R. § 122.2.

36. "Point source" is defined broadly to include, "any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, [or] conduit . . . from which pollutants are or may be discharged." 33 U.S.C. § 1362(14).

37. Section 402 of the CWA requires that NPDES permits be issued for stormwater discharges associated with industrial activities. 33 U.S.C. §§ 1342(a)(1), 1342(p)(2), 1342(p)(3)(A), 1342(p)(4), 1342(p)(6).

38. In establishing the regulations at 40 C.F.R. § 122.26, EPA cited abundant data showing

the harmful effects of stormwater runoff on rivers, streams, and coastal areas across the nation. In particular, EPA found that runoff from industrial facilities contained elevated pollution levels. 55 Fed. Reg. 47990, 47991 (Nov. 16, 1990).

39. In September 1995, EPA issued a NPDES Storm Water Multi-Sector General Permit for Industrial Activities. EPA re-issued the MSGP on October 30, 2000, 65 Fed. Reg. 64746; on September 29, 2008, 73 Fed. Reg. 56572; on June 4, 2015 (the "2015 MSGP"), 80 Fed. Reg. 34403; and on September 29, 2021 (the "2021 MSGP"), 86 Fed. Reg. 10269.

40. The MSGP is issued by EPA pursuant to Sections 402(a) and 402(p) of the CWA and regulates stormwater discharges from industrial facilities. 33 U.S.C. §§ 1342(a), 1342(p).

41. In order to discharge stormwater lawfully, industrial dischargers must obtain coverage under the MSGP and comply with its terms.

42. Industrial dischargers must develop and implement a Stormwater Pollution Prevention Plan ("SWPPP") that identifies sources of pollutants associated with industrial discharges from the facility and identifies effective best management practices to control pollutants in stormwater discharges in a manner that achieves the substantive requirements of the permit.

43. The MSGPs incorporate state water quality standards for all affected states. 2015 MSGP § 2.2.1 at 20; 2021 MSGP § 2.2.1 at 25.

44. The MSGPs require permittees to control stormwater discharges and to modify their control measures "as necessary to meet applicable water quality standards of all affected states." 2015 MSGP §§ 2.1 at 14, 2.2.1 at 20; 2021 MSGP § 2.2.1 at 25.

New Hampshire's Surface Water Quality Regulations

45. New Hampshire's state surface water quality standards address the chemical, physical, and biological integrity of surface waters; the protection and propagation of fish, shellfish, and

wildlife; and recreation. N.H. CODE ADMIN. R. ANN. Env-Wq §§ 1703.01(b), (c); 1703.19 (2022).

46. New Hampshire's state surface water quality standards address substances that settle as harmful deposits; float as foam, debris, or scum; produce unnatural and unsuitable odor, color, taste, or turbidity; or interfere with recreation. *Id.* at § 1703.03(c)(1).

47. New Hampshire state water quality standards contain specific provisions pertaining to dissolved oxygen. *Id.* at § 1703.07.

48. New Hampshire state water quality standards require that Class B waters "shall contain no benthic deposits that have a detrimental impact on the benthic community, unless naturally occurring." *Id.* § 1703.08(b).

49. New Hampshire state water quality standards require that Class B waters "shall contain no oil or grease in such concentrations that would impair any existing or designated uses." *Id.* § 1703.09(b).

50. New Hampshire state water quality standards do not allow Class B waters to contain color in such concentrations that would impair any existing or designated uses, unless naturally occurring. *Id.* § 1703.10(b).

51. New Hampshire state water quality standards require that Class B waters "shall contain no slicks, odors, or surface floating solids that would impair any existing or designated use, unless naturally occurring." § 1703.12(b).

52. New Hampshire state water quality standards require that "all surface waters shall be free from toxic substances or chemical constituents in concentrations or combinations that:

(1) Injure or are inimical to plants, animals, humans or aquatic life; or

(2) Persist in the environment or accumulate in aquatic organisms to levels that result in harmful concentrations in:

a. Edible portions of fish, shellfish, other aquatic life, or

b. Wildlife that might consume aquatic life.

Id. § 1703.21(a).

Citizen Enforcement Suits Under the Clean Water Act

53. The Clean Water Act authorizes citizen enforcement actions against any "person" who is alleged to be in violation of an "effluent standard or limitation . . . or an order issued by the Administrator or a State with respect to such a standard or limitation." 33 U.S.C. § 1365(a)(1).

54. An "effluent limitation" is "any restriction established by a State or the Administrator on quantities, rates, and concentrations of chemical, physical, biological, and other constituents which are discharged from point sources into navigable waters, the waters of the contiguous zone, or the ocean, including schedules of compliance." *See id.* 1362(11).

55. Such enforcement action under Section 505(a)(1) of the Clean Water Act includes an action seeking remedies for unauthorized discharges under Section 301 of the Clean Water Act, 33 U.S.C § 1311, as well as for violations of a permit condition under Section 505(f), 33 U.S.C. § 1365(f).

56. Each separate violation of the Clean Water Act subjects the violator to a penalty of up to the maximum amount allowed pursuant to Sections 309(d) and 505(a) of the Clean Water Act, 33 U.S.C. §§ 1319(d), 1365(a). *See also* 40 C.F.R. §§ 19.1–19.4.

FACTUAL BACKGROUND

The Facilities' MSGPs

57. The Facilities discharge stormwater associated with industrial activity.

58. Schnitzer's activities at the Facilities include activities which are classified by the MSGPs as subsector N1: Scrap Recycling and Waste Recycling Facilities. 2015 MSGP § 8.N.6 at 129; 2021 MSGP § 8.N.6 at 163.

59. Schnitzer's activities at the Facilities include the receiving, processing, and distribution of non-source separated, nonliquid recyclable wastes, including ferrous and nonferrous metals, per § 8.N.3.1 of the MSGPs. 2015 MSGP at 125; 2021 MSGP at 158.

60. Schnitzer's activities at the Concord-Poplar Facility include activities which are classified by the MSGPs as sector P: Land Transportation and Warehousing. 2015 MSGP § 8.P.1 at 135; 2021 MSGP § 8.P.1 at 169.

61. Schnitzer was required to comply with the requirements of the 2015 MSGP from at least January 1, 2016 until July 1, 2021.

62. Schnitzer submitted its Notices of Intent for Stormwater Discharges Associated with Industrial Activity Under the [2021] NPDES Multi-Sector General Permit for the Facilities on May 28, 2021.

63. Schnitzer is required to comply with the requirements of the 2021 MSGP and has been required to comply with the requirements of the 2021 MSGP since July 1, 2021.

Schnitzer's Pollutant Control Requirements Under the MSGP

64. The MSGPs require Schnitzer to "select, design, install, and implement control measures (including best management practices) to minimize pollutant discharges [and] that address the selection and design considerations in Part 2.1.1, meet the non-numeric effluent limits in Part 2.1.2, . . . and meet the water quality-based effluent limitations in Part 2.2." 2015 MSGP § 2.1 at 14; 2021 MSGP § 2.1 at 18.

65. The MSGPs require Schnitzer to "minimize the exposure of manufacturing, processing, and material storage areas (including loading and unloading, storage, disposal, cleaning, maintenance, and fueling operations) to rain, snow, snowmelt and runoff by either locating these industrial materials and activities inside or protecting them with storm resistant coverings." 2015

MSGP § 2.1.2.1 at 15; 2021 MSGP § 2.1.2.1 at 20.

66. The MSGPs require Schnitzer to "keep clean all exposed areas that are potential sources of pollutants" and "perform good housekeeping measures in order to minimize pollutant discharges." 2015 MSGP § 2.1.2.2 at 15-16; 2021 MSGP 2.1.2.2 at 20-21.

67. The MSGPs require Schnitzer to "[s]weep or vacuum at regular intervals or, alternatively, wash down the area and collect and/or treat, and properly dispose of the washdown water." *Id.*

68. The MSGPs require Schnitzer to "[m]inimize the potential for waste, garbage and floatable debris to be discharged by keeping exposed areas free of such materials, or by intercepting them before they are discharged." 2015 MSGP § 2.1.2.2 at 16; 2021 MSGP 2.1.2.2 at 21.

69. The MSGPs require Schnitzer to "maintain all control measures that are used to achieve the effluent limits in this permit in effective operating condition, as well as all industrial equipment and systems, in order to minimize pollutant discharges." 2015 MSGP § 2.1.2.3 at 16-17; 2021 MSGP 2.1.2.3 at 21-22.

70. The MSGPs require Schnitzer to "perform[] inspections and preventative maintenance of stormwater drainage, source controls, treatment systems, and plant equipment and systems that could fail and result in discharges of pollutants via stormwater." *Id.*

71. The MSGPs require Schnitzer to "clean[] catch basins when the depth of debris reaches two-thirds (2/3) of the sump depth . . . and keep[] the debris surface at least six inches below the lowest outlet pipe." *Id.*

72. The MSGPs require that if Schnitzer "find[s] that [its] control measures need routine maintenance, [it] must conduct the necessary maintenance immediately in order to minimize pollutant discharges." *Id.* If Schnitzer "find[s] that [its] control measures need to be repaired or

replaced, [it] must immediately take all reasonable steps to prevent or minimize the discharge of pollutants until the final repair or replacement is implemented." *Id.*

73. The MSGPs require Schnitzer to "minimize the potential for leaks, spills, and other releases that may be exposed to stormwater and develop plans for effective response to such spills if or when they occur in order to minimize pollutant discharges. [It] must conduct spill prevention and response measures," including measures listed in § 2.1.2.4 of the MSGPs. 2015 MSGP § 2.1.2.4 at 17; 2021 MSGP 2.1.2.4 at 22-23.

74. The MSGPs require Schnitzer to minimize erosion and discharge of sediment. 2015 MSGP § 2.1.2.5 at 17-18; 2021 MSGP 2.1.2.5 at 23.

75. The MSGPs require Schnitzer to "divert, infiltrate, reuse, contain, or otherwise reduce stormwater runoff to minimize pollutants in [its] discharges." 2015 MSGP § 2.1.2.6 at 18; 2021 MSGP 2.1.2.6 at 23.

76. The MSGPs require Schnitzer to "evaluate for the presence of non-stormwater discharges. . . If not covered under a separate NPDES permit, wastewater, wash water and any other unauthorized non-stormwater must be discharged to a sanitary sewer in accordance with applicable industrial pretreatment requirements, or otherwise disposed of appropriately." 2015 MSGP § 2.1.2.9 at 19; 2021 § 2.1.2.9 at 24.

77. The MSGPs require Schnitzer to "minimize generation of dust and off-site tracking of raw, final, or waste materials in order to minimize pollutants discharged via stormwater." 2015 MSGP § 2.1.2.10 at 19; 2021 MSGP 2.1.2.10 at 24.

78. Schnitzer is required to conduct routine facility inspections "of areas of the facility covered by the requirements in the [MSGPs]" at least quarterly. 2015 MSGP § 3.1 at 22-24; 2021 MSGP § 3.1 at 27-29.

79. The MSGPs require that "[d]uring an inspection occurring during a stormwater event or discharge, control measures implemented to comply with effluent limits must be observed to ensure they are functioning correctly." *Id.*

Schnitzer's Sector-Specific Pollutant Control Requirements Under the MSGPs

80. The MSGPs require Schnitzer to minimize the chance of accepting materials that could be significant sources of pollutants by conducting inspections of inbound recyclables and waste materials and through implementation of control measures. 2015 MSGP § 8.N.3.1.1 at 125; 2021 MSGP § 8.N.3.1.1 at 158.

81. The MSGPs require Schnitzer to minimize contact of stormwater and/or stormwater runoff with stockpiled materials, processed materials, and nonrecyclable wastes through implementation of control measures. 2015 MSGP § 8.N.3.1.2 at 126; 2021 MSGP § 8.N.3.1.2 at 159.

82. The MSGPs require Schnitzer to minimize contact of stormwater and/or surface runoff with residual cutting fluids by storing all turnings exposed to cutting fluids under some form of permanent or semi-permanent cover or establishing dedicated containment areas for all turnings that have been exposed to cutting fluids. 2015 MSGP § 8.N.3.1.3 at 126; 2021 MSGP § 8.N.3.1.3 at 159.

83. The MSGPs require Schnitzer to minimize contact of residual liquids and particulate matter from materials stored indoors or under cover with stormwater and/or surface runoff through implementation of control measures. 2015 MSGP § 8.N.3.1.4 at 126; 2021 MSGP § 8.N.3.1.4 at 159.

84. The MSGPs require Schnitzer to minimize the contact of stormwater and/or surface runoff with scrap processing equipment and accumulated particulate matter and residual fluids.

2015 MSGP § 8.N.3.1.5 at 126; 2021 MSGP § 8.N.3.1.5 at 159.

85. The MSGPs require Schnitzer to implement control measures to "minimize discharges of pollutants in stormwater from scrap and recyclable waste processing areas." *Id*.

86. The MSGPs require Schnitzer to "minimize the discharge of pollutants in stormwater from lead-acid batteries, properly handle, store, and dispose of scrap lead-acid batteries, and implement control measures." 2015 MSGP § 8.N.3.1.6 at 127; 2021 MSGP § 8.N.3.1.6 at 160.

87. The MSGPs require Schnitzer to minimize contamination of stormwater and/or stormwater runoff from fueling areas through implementation of control measures at the Concord-Poplar Facility. 2015 MSGP § 8.P.3.1.2 at 135; 2021 MSGP § 8.P.3.1.2 at 169.

88. The MSGPs require Schnitzer to "[m]aintain all material storage vessels. . . to prevent contamination of stormwater" and "minimize discharges of pollutants in stormwater from material storage areas" by "implement[ing] control measures" at the Concord-Poplar Facility. 2015 MSGP § 8.P.3.1.3 at 135; 2021 MSGP § 8.P.3.1.3 at 169.

Schnitzer's Monitoring and Reporting Requirements Under the MSGPs

89. The MSGPs require Schnitzer "to collect and analyze stormwater samples" during "a storm event that results in an actual discharge from [the] site" "at least once in each of the following 3-month intervals: January 1—March 31; April 1—June 30; July 1—September 30; October 1—December 31." 2015 MSGP § 6, 6.1.3, 6.1.7 at 39-40; 2021 MSGP § 4, 4.1.3, 4.1.7 at 31-33.

90. Schnitzer is required to conduct quarterly benchmark monitoring for aluminum, copper, iron, lead, zinc, chemical oxygen demand ("COD"), and total suspended solids ("TSS"). 2015 MSGP § 6.2 at 40-41, § 8.N.6 at 129-130; 2021 MSGP § 4.2 at 33-35, § 8.N.7 at 163-164.

91. "When adverse weather conditions [such as flooding, high winds, electrical storms, or

extended frozen conditions] prevent the collection of stormwater discharge samples according to the relevant [benchmark or impaired waters] monitoring schedule, [Schnitzer] must take a substitute sample during the next qualifying storm event." 2015 MSGP § 6.1.5 at 39-40; 2021 MSGP § 4.1.5 at 33.

92. Once each quarter for the entire MSGP term, Schnitzer must collect a stormwater sample from each outfall and conduct a visual assessment of each of these samples. 2015 MSGP § 3.2.1 at 24; 2021 MSGP § 3.2.1 at 29. Schnitzer "must visually inspect or observe the sample for the following water quality characteristics: color; odor; clarity (diminished); floating solids; settled solids; suspended solids; foam; oil sheen; and other obvious indicators of stormwater pollution." *Id.*; 2021 MSGP § 3.2.2.4 at 29-30.

93. "When adverse weather conditions prevent the collection of stormwater discharge sample(s) during the quarter [for visual assessment], Schnitzer must take a substitute sample during the next qualifying storm event. Documentation of the rationale for no visual assessment for the quarter must be included with [Schnitzer's] SWPPP records." 2015 MSGP § 3.2.3 at 25; 2021 MSGP § 3.2.4.1 at 30.

94. The Facilities are "considered to discharge to an impaired water if the first water of the U.S. to which [it] discharges is identified by a state, tribe, or EPA pursuant to section 303(d) of the CWA as not meeting an applicable water quality standard . . ." 2015 MSGP § 6.2.4 at 45; 2021 MSGP § 4.2.5 at 42.

95. The 2015 MSGP requires Schnitzer to "monitor all pollutants for which the waterbody is impaired and for which a standard analytical method exists . . . once per year at each outfall (except substantially identical outfalls) discharging stormwater to impaired waters without an EPA-approved or established TMDL [Total Maximum Daily Load]." The MSGPs identify such

monitoring as "impaired waters monitoring." 2015 MSGP § 6.2.4.1 at 45.

96. The 2021 MSGP requires Schnitzer to conduct impaired waters monitoring "annually in the first year of permit coverages and again in the fourth year of permit coverage. . . unless [it] detect[s] a pollutant causing an impairment, in which case annual monitoring must continue." 2021 MSGP § 4.2.5.1 at 42.

97. Schnitzer is required to conduct impaired waters monitoring for its discharges from the Concord-Poplar and Concord-Sandquist Facilities for pH, aluminum, dissolved oxygen, and/or mercury.

98. Schnitzer is required to conduct impaired waters monitoring for its discharges from the Manchester Facility for aluminum, pH, phosphorus, mercury, and/or E. coli.

99. Schnitzer is required to report its monitoring data to EPA using EPA's electronic NetDMR tool. 2015 MSGP § 6.1.9 at 40; 2021 MSGP § 4.1.9 at 33.

Schnitzer's Required Corrective Action and Additional Implementation Measures Under the MSGPs

100. The MSGPs require Schnitzer to take corrective action or Additional Implementation Measures ("AIMs") when the following triggering events occur: 1) "the average of four quarterly sampling results exceeds an applicable benchmark" or, if less than four benchmark samples have been taken, "an exceedance of the four quarter average is mathematically certain (i.e., if the sum of quarterly sample results to date is more than four times the benchmark level)," 2015 MSGP at 27; 2021 MSGP at 39; 2) Schnitzer's control measures are not stringent enough for the discharge and/or the receiving water of the United States to meet applicable water quality standards or the non-numeric effluent limits in the MSGPs, 2015 MSGP at 27; 2021 MSGP at 45; 3) a visual assessment shows evidence of stormwater pollution (e.g., color, odor, floating solids, settled solids, suspended solids, foam), *id.*; or 4) a required control measure was never installed, was

installed incorrectly, or not in accordance with the MSGPs, or is not being properly operated or maintained, *id*.

101. The MSGPs include sector-specific benchmarks for Sector N facilities like Schnitzer. 2015 MSGP § 8.N at 125-130; 2021 MSGP § 8.N at 158-164.

102. The benchmark values in the 2015 MSGP applicable to Schnitzer and not dependent on water hardness are: 0.75 milligrams per liter for aluminum; 1.0 milligrams per liter for iron; 120 milligrams per liter for COD; and 100 milligrams per liter for TSS. 2015 MSGP at 129-130.

103. The benchmark values in the 2021 MSGP applicable to Schnitzer and not dependent on water hardness are: 1.1 milligrams per liter for aluminum; 5.19 micrograms per liter for copper; 120 milligrams per liter for COD; 100 milligrams per liter for TSS. 2021 MSGP at 163-4.

104. The hardness of the receiving water for the Facilities is 12.5 milligrams per liter.

105. The water-hardness dependent benchmark values in the 2015 MSGP applicable to the Facilities are: 3.8 micrograms per liter for copper; 0.014 milligrams per liter for lead; and 0.04 milligrams per liter for zinc. 2015 MSGP § 8.N.6 at 129-130.

106. The water-hardness dependent benchmark values in the 2021 MSGP applicable to the Facilities are: 14 micrograms per liter for lead; and 37 micrograms per liter for zinc. 2021 MSGP § 8.N.7 at 163-4.[1]

107. Following a triggering event, Schnitzer is required to: 1) review and revise its SWPPP so that the MSGPs' effluent limits are met and pollutant discharges are minimized; 2) immediately take all reasonable steps necessary to minimize or prevent the discharge of pollutants until a permanent solution is installed and made operational; and 3) if necessary, "complete the corrective actions. . . before the next storm event if possible, and within 14 calendar days from

[1] The benchmark value units of measurement for certain pollutant criteria change from milligrams per liter in the 2015 MSGP to micrograms per liter in the 2021 MSGP.

the time of discovery of the corrective action condition." 2015 MSGP §§ 4.1 at 27, 4.3.1 at 28, 4.3.2 at 28; 2021 MSGP §§ 5.1.1 § 45, 5.1.3.1 at 46, 5.1.3.2 at 46.

Schnitzer's State Water Quality Standards Requirements

108. Under the MSGPs, Schnitzer is required to control its stormwater discharges "as necessary to meet applicable water quality standards of all affected states." 2015 MSGP § 2.2.1 at 20; 2021 MSGP § 2.2.1 at 25.

109. Schnitzer's discharge must not cause or contribute to an exceedance of applicable water quality standards in any affected state. 2015 MSGP § 2.2.1 at 20.

110. The MSGPs require that if at any time Schnitzer becomes aware that its discharge does not meet applicable water quality standards or its stormwater discharge will not be controlled as necessary such that the receiving water of the United States will not meet an applicable water quality standard, Schnitzer must take corrective action(s) and document the corrective actions. 2015 MSGP § 2.2.1 at 20; 2021 MSGP § 2.2.1 at 25.

111. If Schnitzer finds that its control measures are not achieving their intended effect of minimizing pollutant discharges to meet applicable water standards or any of the other non-numeric effluent limits in the MSGP, Schnitzer must modify these control measures per the corrective action requirements. 2015 MSGP § 2.1 at 14; 2021 MSGP § 2.1 at 18.

<u>The Facilities and Their Operations and Discharges</u>

112. Defendants Schnitzer Steel, Prolerized, Joint Venture, Proleride, and Maine Metal have operated, and continue to operate, a scrap metal facility at 14 Poplar Avenue in Concord, New Hampshire (the "Concord-Poplar Facility").

113. Defendants Schnitzer Steel, Prolerized, Joint Venture, Proleride, and Maine Metal have operated, and continue to operate, a scrap metal facility at 25 Sandquist Street in Concord, New Hampshire (the "Concord-Sandquist Facility").

114. Defendants Schnitzer Steel, Prolerized, Joint Venture, Proleride, and Maine Metal have operated, and continue to operate, a scrap metal facility at 200 Allard Drive in Manchester, New Hampshire (the "Manchester Facility").

115. Schnitzer collects and/or processes raw scrap metal, including salvaged vehicles, rail cars, household scrap and appliances, industrial machinery, manufacturing scrap, and construction and demolition scrap at the Facilities.

116. Schnitzer receives unprocessed scrap metal at the Facilities, which it stores in uncovered piles on-site that are exposed to precipitation and snowmelt.

117. Schnitzer's processing activities include crushing, torching, shearing, shredding, separating, sorting, and/or baling of scrap metal.

118. Most of Schnitzer's scrap processing operations are conducted outdoors.

119. Processed metal is stored at the Facilities in uncovered bales that are exposed to precipitation and snowmelt.

120. Scrap metal at the Concord-Poplar Facility is compressed and then loaded onto rail cars.

121. Upon information and belief, as Schnitzer loads railcars with processed scrap metal at the Concord-Poplar Facility, dust is generated which directly enters the South End Marsh Wetlands Complex and is discharged from the Concord-Poplar Facility in stormwater.

122. The Facilities store petroleum hydrocarbons onsite, including bulk fuel storage in aboveground storage tanks that are exposed to precipitation and snowmelt.

123. Upon information and belief, the Facilities' handling and/or storage of oil, grease, petroleum hydrocarbons, and/or fuel have resulted in spills, leaks, and/or slicks at the Facilities.

124. Upon information and belief, spills, leaks, and/or slicks of oil, grease, petroleum hydrocarbons, and/or fuel at the Facilities have been exposed to precipitation and snowmelt.

125. Processed and unprocessed scrap metal, end-of-life vehicles, machinery, equipment, oil, fuel, and chemical storage tanks, batteries, and vehicles are exposed to precipitation and snowmelt at the Facilities.

126. Precipitation and snowmelt at the Facilities become contaminated with heavy metals, dust and solids, organic contaminants including fuel and oil, trash, and other pollutants associated with the Facilities' operations.

127. The sources of pollutants associated with industrial operations at the Facilities include: unprocessed scrap metal including end-of-life vehicles, appliances, machinery, and other scrap; bales of processed scrap metal; machines and equipment left outdoors; and vehicles driving on and off the Facilities.

128. Pollutants associated with industrial operations at the Facilities include, but are not limited to: heavy metals, suspended solids, debris, solvents, dust, low density waste (floatables), oil, fuel, trash, and other pollutants associated with the Facilities' operations.

129. During every measurable precipitation event and every instance of snowmelt, water flows onto and over exposed materials and accumulated pollutants at the Facilities, generating stormwater runoff.

130. EPA considers precipitation above 0.1 inches during a 24-hour period a measurable precipitation event. 40 C.F.R. § 122.26(c)(i)(E)(6).

131. Upon information and belief, a measurable precipitation event is sufficient to generate runoff from the Facility.

132. Stormwater runoff from the Facilities is collected, channeled, and conveyed via site grading, slopes, site infrastructure, the operation of gravity, and other conveyances into waters of the United States.

133. Schnitzer has discharged and continues to discharge stormwater associated with industrial activities from the Facilities into waters of the United States.

134. The Concord-Poplar Facility has a SWPPP that was most recently updated in May 2021. Upon information and belief, the Concord-Poplar Facility's SWPPP has not been modified in response to conditions requiring SWPPP review and revision, per § 4.1 of the 2015 MSGP and § 5.1.1 of the 2021 MSGP, since at least December 2016.

135. The Concord-Sandquist Facility has a SWPPP that was most recently updated in May 2021. Upon information and belief, the Concord-Sandquist Facility's SWPPP has not been modified in response to conditions requiring SWPPP review and revision, per § 4.1 of the 2015 MSGP and § 5.1.1 of the 2021 MSGP, since at least December 2016.

136. The Manchester Facility has a SWPPP that was most recently updated in May 2021. Upon information and belief, the Manchester Facility's SWPPP has not been modified in response to conditions requiring SWPPP review and revision, per § 4.1 of the 2015 MSGP and § 5.1.1 of the 2021 MSGP, since at least December 2016.

137. Schnitzer's operations cause the discharge of pollutants – including but not limited to aluminum, copper, iron, lead, zinc, COD, and TSS – from the Facilities.

138. At the Concord-Poplar Facility, Schnitzer discharges pollutants – including but not limited to aluminum, copper, iron, lead, zinc, COD, and TSS – from three outfalls.

139. The Concord-Poplar Facility discharges stormwater from Outfall 001 to the City of Concord municipal separate storm sewer system. The City of Concord sewer system then discharges into the Merrimack River.

140. The Concord-Poplar Facility discharges stormwater from three catch basins through Outfall 002 to a wetland complex adjacent to the South End Marsh.

141. The Concord-Poplar Facility discharges stormwater from Outfall 003 to the wetland complex adjacent to the South End Marsh.

142. At the Concord-Sandquist Facility, Schnitzer discharges pollutants – including but not limited to aluminum, copper, iron, lead, zinc, COD, and TSS – from Outfall 001 to the Merrimack River via an underground conduit.

143. At the Manchester Facility, Schnitzer discharges pollutants – including but not limited to aluminum, copper, iron, lead, zinc, COD, and TSS – from Outfall 001 to the City of Manchester Municipal Separate Storm Sewer System. The City of Manchester sewer system discharges to the Merrimack River 450 feet east of the Manchester Facility.

The Waterbodies Affected by the Facilities' Discharges

144. The Concord-Poplar and Concord-Sandquist Facilities discharge pollutants to the Merrimack River at waterbody segment NHIMP700060302-07.

145. Waterbody segment NHIMP700060302-07 was listed as impaired on the 2018 and 2016 303(d) lists for aquatic life integrity from pH.

146. Waterbody segment NHIMP700060302-07 is impaired for fish consumption from mercury and for potential drinking water supply from E. coli.

147. The Manchester Facility discharges pollutants to the Merrimack River at waterbody segment NHRIV700060803-14-02.

148. Waterbody segment NHRIV700060803-14-02 was listed as impaired on the 2016 and 2018 303(d) lists for aquatic life integrity from aluminum and pH.

149. Waterbody segment NHRIV700060803-14-02 is impaired for aquatic life from total phosphorus, for fish consumption from mercury, and for primary contact recreation from E. coli.

150. In 2010, NH DES prepared a New Hampshire Statewide Total Maximum Daily Load

("TMDL") for Bacteria Impaired Waters addressing the E. coli impairments for waterbody segments NHIMP700060302-07 and NHRIV700060803-14-02.

151. In 2007, NH DES along with the Connecticut Department of Environmental Protection, the Maine Department of Environmental Protection, the Massachusetts Department of Environmental Protection, the New York State Department of Environmental Conservation, the Rhode Island Department of Environmental Management, the Vermont Department of Environmental Conservation, and the New England Interstate Water Pollution Control Commission prepared a Northeast Regional Mercury Total Maximum Daily Load addressing mercury impairments in the lower Merrimack River in New Hampshire.

152. The Merrimack River is a Class B waterbody.

153. The Merrimack River is a navigable water within the meaning of the Clean Water Act.

154. The Merrimack River's designated uses include aquatic life, fish consumption, potential drinking water supply, and primary and secondary contact recreation.

155. The Merrimack River is a source of drinking water for around 600,000 people residing in New Hampshire and Massachusetts.

156. The Merrimack River is a popular resource for residents and visitors who enjoy swimming, fishing, boating, kayaking, canoeing, hiking, observing wildlife, and a variety of other aesthetic, and primary and secondary contact recreation uses on and near the River.

157. The Concord-Poplar Facility discharges pollutants to South End Marsh, the wetland complex adjacent to it, and/or the small unnamed waterbody bordering South End Marsh to the south which is identified by the EPA watershed boundary dataset hydrological unit code 010700060302 (collectively, the "South End Marsh Wetland Complex").

158. The South End Marsh Wetland Complex is part of the Merrimack River watershed and

floodplain.

159. The waterbody identified by EPA unit code 010700060302, which comprises a part of the South End Marsh Wetland Complex, is listed as having the following pollutants potentially related to impairment: aluminum, chemical oxygen demand, copper, lead, oxygen, zinc, and pH.

160. The waterbodies which comprise the South End Marsh Wetland Complex are navigable waters within the meaning of the Clean Water Act.

161. The waterbodies which comprise the South End Marsh Wetland Complex are Class B waterbodies.

DEFENDANTS' VIOLATIONS OF THE CLEAN WATER ACT

Effluent and Water Quality Standards Violations

162. The Facilities have failed, and continue to fail, to use control measures to minimize pollutant discharges.

163. The Facilities have discharged, and continue to discharge, pollutants (including but not limited to discharges of aluminum, copper, iron, lead, zinc, organic materials measured as COD, solids, foam, oil and grease, and other odiferous and discolored pollutants) that have contributed to, and will continue to contribute to, significant degradation of the Merrimack River and the South End Marsh Wetland Complex, including the violation of state water quality standards.

164. The discharge of pollutants from the Facilities has resulted in unnatural and objectionable odor, color, taste, and/or turbidity in the receiving waters downstream from the Facilities.

165. The discharge of pollutants from the Facilities has resulted in floating, suspended, and settleable solids; scum; benthic deposits; oil and grease; and/or harmful concentrations or combinations of chemical constituents in the receiving waters downstream from the Facilities.

166. The discharge of pollutants – including aluminum, COD, copper, lead, zinc, and pH – from the Concord-Poplar Facility has contributed to the impairment of the South End Marsh

Wetland Complex.

167. The discharge of pollutants from the Manchester Facility has contributed to the impairments of the Merrimack River at waterbody segment NHRIV700060803-14-02 for aquatic life from aluminum.

168. Upon information and belief, CLF expects that discovery will reveal additional discharges of pollutants causing or contributing to violations of the New Hampshire state water quality standards.

169. Upon information and belief, CLF expects that discovery will reveal additional violations of the MSGPs.

Pollutant: Aluminum

170. The Facilities' discharges of aluminum contribute to the degradation of the Merrimack River and the South End Marsh Wetland Complex and to the violation of state water quality standards for New Hampshire.

171. Aluminum is toxic to fish and many aquatic animals. It bioaccumulates in certain types of plants and in some fish and invertebrate species.

172. Skin exposure to aluminum may cause rashes. When ingested, aluminum may cause health problems in humans such as bone disease, brain disease, and Alzheimer's disease.

173. The Facilities' quarterly discharge monitoring reports show that they have discharged aluminum every quarter for which monitoring was conducted since the fourth quarter of 2016.

174. The Facilities have failed, and continue to fail, to use control measures to minimize discharges of aluminum.

175. The Concord-Poplar Facility has discharged concentrations of aluminum higher than the 2015 MSGP benchmark value for aluminum of 0.75 milligrams per liter and/or the 2021 MSGP

benchmark value for aluminum of 1,100 micrograms per liter 15 times between the first quarter of 2017 and the third quarter of 2021, as detailed in the below table.

Par. No.	Pollutant Criteria	Monitoring Period End Date	Outfall	Benchmark Value	Measured Value	Limit Exceedance Percent
176.	Aluminum	3/31/2017	002	0.75 mg/L	19 mg/L	2,533%
177.	Aluminum	3/31/2017	003	0.75 mg/L	1.3 mg/L	173%
178.	Aluminum	6/30/2017	002	0.75 mg/L	2.3 mg/L	307%
179.	Aluminum	6/30/2017	003	0.75 mg/L	3 mg/L	400%
180.	Aluminum	12/31/2017	002	0.75 mg/L	1.1 mg/L	147%
181.	Aluminum	3/31/2018	002	0.75 mg/L	3 mg/L	400%
182.	Aluminum	3/31/2018	003	0.75 mg/L	0.84 mg/L	112%
183.	Aluminum	6/30/2018	002	0.75 mg/L	3.8 mg/L	507%
184.	Aluminum	6/30/2018	003	0.75 mg/L	4.2 mg/L	560%
185.	Aluminum	9/30/2018	002	0.75 mg/L	1.5 mg/L	200%
186.	Aluminum	9/30/2019	002	0.75 mg/L	3.2 mg/L	427%
187.	Aluminum	9/30/2020	002	0.75 mg/L	9.9 mg/L	1,320%
188.	Aluminum	12/31/2020	002	0.75 mg/L	1 mg/L	133%
189.	Aluminum	3/31/2021	002	0.75 mg/L	1.6 mg/L	213%
190.	Aluminum	9/30/2021	002	1,100 µg/L	3,800 µg/L	345%

191. The Concord-Sandquist Facility has discharged concentrations of aluminum higher than the 2015 MSGP benchmark value for aluminum of 0.75 milligrams per liter nine times between the fourth quarter of 2017 and the fourth quarter of 2020, as detailed in the below table.

Par. No.	Pollutant Criteria	Monitoring Period End Date	Outfall	Benchmark Value	Measured Value	Limit Exceedance Percent
192.	Aluminum	12/31/2017	001	0.75 mg/L	1.3 mg/L	173%
193.	Aluminum	3/31/2018	001	0.75 mg/L	2.4 mg/L	320%
194.	Aluminum	6/30/2018	001	0.75 mg/L	1.4 mg/L	187%
195.	Aluminum	9/30/2018	001	0.75 mg/L	5 mg/L	667%
196.	Aluminum	3/31/2019	001	0.75 mg/L	0.81 mg/L	108%
197.	Aluminum	6/30/2019	001	0.75 mg/L	0.95 mg/L	127%
198.	Aluminum	12/31/2019	001	0.75 mg/L	5 mg/L	667%
199.	Aluminum	9/30/2020	001	0.75 mg/L	9.6 mg/L	1,280%
200.	Aluminum	12/31/2020	001	0.75 mg/L	6.2 mg/L	827%

201. The Manchester Facility discharged concentrations of aluminum higher than the 2015 MSGP benchmark value for aluminum of 0.75 milligrams per liter and/or the 2021 MSGP

benchmark value for aluminum of 1,100 micrograms per liter nine times between the second quarter of 2017 and the third quarter of 2021, as detailed in the below table.

Par. No.	Pollutant Criteria	Monitoring Period End Date	Outfall	Benchmark Value	Measured Value	Limit Exceedance Percent
202.	Aluminum	6/30/2017	001	0.75 mg/L	0.85 mg/L	113%
203.	Aluminum	12/31/2017	001	0.75 mg/L	1.3 mg/L	173%
204.	Aluminum	3/31/2018	001	0.75 mg/L	1.8 mg/L	240%
205.	Aluminum	3/31/2019	001	0.75 mg/L	4.3 mg/L	573%
206.	Aluminum	6/30/2019	001	0.75 mg/L	2 mg/L	267%
207.	Aluminum	9/30/2020	001	0.75 mg/L	0.79 mg/L	105%
208.	Aluminum	12/31/2020	001	0.75 mg/L	12 mg/L	1,600%
209.	Aluminum	3/31/2021	001	0.75 mg/L	6.6 mg/L	880%
210.	Aluminum	9/30/2021	001	1,100 µg/L	1,500 µg/L	136%

211. Schnitzer's four-quarter average aluminum concentrations at the Concord-Poplar Facility have exceeded the 2015 MSGP benchmark value for aluminum of 0.75 milligrams per liter 15 times since the fourth quarter of 2016.

212. Schnitzer's discharges of aluminum from the Concord-Poplar Facility have triggered the MSGPs' corrective action and/or AIM requirements 15 times since the fourth quarter of 2016, as detailed in the below table.

Par. No.	Pollutant Criteria	Date Corrective Action Triggered	Outfall	Benchmark Value	Annual Average[2]
213.	Aluminum	3/31/2017	002	0.75 mg/L	11.4 mg/L
214.	Aluminum	3/31/2017	003	0.75 mg/L	1.05 mg/L
215.	Aluminum	6/30/2017	002	0.75 mg/L	6.03 mg/L
216.	Aluminum	6/30/2017	003	0.75 mg/L	1.54 mg/L
217.	Aluminum	12/31/2017	002	0.75 mg/L	5.95 mg/L
218.	Aluminum	3/31/2018	002	0.75 mg/L	6.35 mg/L
219.	Aluminum	3/31/2018	003	0.75 mg/L	1.43 mg/L
220.	Aluminum	6/30/2018	002	0.75 mg/L	2.55 mg/L
221.	Aluminum	6/30/2018	003	0.75 mg/L	2.33 mg/L

[2] Either the four-quarter annual average or the measured value where an exceedance is mathematically certain (i.e., the sum of a quarterly sample results to date is already more than four times the benchmark threshold).

222.	Aluminum	9/30/2018	002	0.75 mg/L	2.35 mg/L
223.	Aluminum	6/30/2019	002	0.75 mg/L	2.13 mg/L
224.	Aluminum	9/30/2019	002	0.75 mg/L	2.18 mg/L
225.	Aluminum	9/30/2020	002	0.75 mg/L	3.70 mg/L
226.	Aluminum	12/31/2020	002	0.75 mg/L	3.58 mg/L
227.	Aluminum	3/31/2021	002	0.75 mg/L	3.93 mg/L

228. Schnitzer's four-quarter average aluminum concentrations at the Concord-Sandquist Facility have exceeded the 2015 MSGP benchmark value for aluminum of 0.75 milligrams per liter ten times since the fourth quarter of 2016.

229. Schnitzer's discharges of aluminum from the Concord-Sandquist Facility have triggered the MSGPs' corrective action and/or AIM requirements ten times since the fourth quarter of 2016, as detailed in the below table.

Par. No.	**Pollutant Criteria**	**Date Corrective Action Triggered**	**Outfall**	**Benchmark Value**	**Annual Average**
230.	Aluminum	3/31/2018	001	0.75 mg/L	0.978 mg/L
231.	Aluminum	6/30/2018	001	0.75 mg/L	1.3 mg/L
232.	Aluminum	9/30/2018	001	0.75 mg/L	2.52 mg/L
233.	Aluminum	3/31/2019	001	0.75 mg/L	2.40 mg/L
234.	Aluminum	6/30/2019	001	0.75 mg/L	2.04 mg/L
235.	Aluminum	9/30/2019	001	0.75 mg/L	1.78 mg/L
236.	Aluminum	12/31/2019	001	0.75 mg/L	1.78 mg/L
237.	Aluminum	9/30/2020	001	0.75 mg/L	3.98 mg/L
238.	Aluminum	12/31/2020	001	0.75 mg/L	5.29 mg/L
239.	Aluminum	3/31/2021	001	0.75 mg/L	5.20 mg/L

240. Schnitzer's four-quarter average aluminum concentrations at the Manchester Facility have exceeded the 2015 MSGP benchmark value for aluminum of 0.75 milligrams per liter 12 times since the fourth quarter of 2016.

241. Schnitzer's discharges of aluminum from the Manchester Facility have triggered the MSGPs' corrective action and/or AIM requirements 12 times since the fourth quarter of 2016, as detailed in the below table.

Par. No.	Pollutant Criteria	Date Corrective Action Triggered	Outfall	Benchmark Value	Annual Average
242.	Aluminum	3/31/2017	001	0.75 mg/L	2.57 mg/L
243.	Aluminum	6/30/2017	001	0.75 mg/L	2.62 mg/L
244.	Aluminum	12/31/2017	001	0.75 mg/L	1.47 mg/L
245.	Aluminum	3/31/2018	001	0.75 mg/L	1.15 mg/L
246.	Aluminum	6/30/2018	001	0.75 mg/L	1.15 mg/L
247.	Aluminum	9/30/2018	001	0.75 mg/L	1.05 mg/L
248.	Aluminum	3/31/2019	001	0.75 mg/L	1.80 mg/L
249.	Aluminum	6/30/2019	001	0.75 mg/L	1.85 mg/L
250.	Aluminum	9/30/2019	001	0.75 mg/L	1.8 mg/L
251.	Aluminum	9/30/2020	001	0.75 mg/L	1.88 mg/L
252.	Aluminum	12/31/2020	001	0.75 mg/L	3.80 mg/L
253.	Aluminum	3/31/2021	001	0.75 mg/L	4.95 mg/L

Pollutant: Copper

254. The Facilities' discharges of copper contribute to the degradation of the Merrimack River and the South End Marsh Wetland Complex and to the violation of state water quality standards for New Hampshire.

255. Copper is toxic to aquatic animals and it bioconcentrates in mollusks.

256. The ingestion of copper can be dangerous for humans. Consuming too much copper may cause liver and kidney damage, increased risk of heart disease, nausea, vomiting, abdominal pain, diarrhea, and even death.

257. Stormwater runoff is a major source of elevated copper levels in river water.

258. The Facilities' quarterly discharge monitoring reports show that they have discharged copper every quarter for which monitoring was conducted since the fourth quarter of 2016.

259. The Facilities have failed, and continue to fail, to use control measures to minimize discharges of copper.

260. The Concord-Poplar Facility has discharged concentrations of copper higher than the 2015 MSGP benchmark value for copper of 3.8 micrograms per liter and/or the 2021 MSGP

benchmark value for copper of 5.19 micrograms per liter 19 times between the first quarter of 2017 and the third quarter of 2021, as detailed in the below table.

Par. No.	Pollutant Criteria	Monitoring Period End Date	Outfall	Benchmark Value	Measured Value	Limit Exceedance Percent
261.	Copper	3/31/2017	001	3.8 µg/L	26 µg/L	684%
262.	Copper	3/31/2017	002	3.8 µg/L	660 µg/L	1,7368%
263.	Copper	6/30/2017	001	3.8 µg/L	27 µg/L	711%
264.	Copper	6/30/2017	002	3.8 µg/L	120 µg/L	3,158%
265.	Copper	6/30/2017	003	3.8 µg/L	130 µg/L	3,421%
266.	Copper	3/31/2018	001	3.8 µg/L	7 µg/L	184%
267.	Copper	3/31/2018	002	3.8 µg/L	48 µg/L	1,263%
268.	Copper	3/31/2018	003	3.8 µg/L	17 µg/L	447%
269.	Copper	6/30/2018	001	3.8 µg/L	7.9 µg/L	208%
270.	Copper	6/30/2018	002	3.8 µg/L	86 µg/L	2,263%
271.	Copper	6/30/2018	003	3.8 µg/L	260 µg/L	6,842%
272.	Copper	9/30/2018	002	3.8 µg/L	440 µg/L	1,1579%
273.	Copper	9/30/2019	001	3.8 µg/L	92 µg/L	2,421%
274.	Copper	9/30/2019	002	3.8 µg/L	77 µg/L	2,026%
275.	Copper	12/31/2020	002	3.8 µg/L	27 µg/L	711%
276.	Copper	3/31/2021	001	3.8 µg/L	30 µg/L	789%
277.	Copper	3/31/2021	002	3.8 µg/L	48 µg/L	1,263%
278.	Copper	9/30/2021	001	5.19 µg/L	22 µg/L	424%
279.	Copper	9/30/2021	002	5.19 µg/L	100 µg/L	1,927%

280. The Concord-Sandquist Facility has discharged concentrations of copper higher than the 2015 MSGP benchmark value for copper of 3.8 micrograms per liter eight times between the second quarter of 2017 and the first quarter of 2021, as detailed in the below table.

Par. No.	Pollutant Criteria	Monitoring Period End Date	Outfall	Benchmark Value	Measured Value	Limit Exceedance Percent
281.	Copper	6/30/2017	001	3.8 µg/L	26 µg/L	684%
282.	Copper	3/31/2018	001	3.8 µg/L	290 µg/L	7,632%
283.	Copper	6/30/2018	001	3.8 µg/L	290 µg/L	7,632%
284.	Copper	9/30/2018	001	3.8 µg/L	410 µg/L	10,789%
285.	Copper	9/30/2019	001	3.8 µg/L	80 µg/L	2,105%
286.	Copper	9/30/2020	001	3.8 µg/L	1,700 µg/L	44,737%
287.	Copper	12/31/2020	001	3.8 µg/L	810 µg/L	21,316%
288.	Copper	3/31/2021	001	3.8 µg/L	270 µg/L	7,105%

289. The Manchester Facility discharged concentrations of copper higher than the 2015 MSGP benchmark value for copper of 3.8 micrograms per liter and/or the 2021 MSGP benchmark value for copper of 5.19 micrograms per liter eight times between the first quarter of 2017 and the third quarter of 2021, as detailed in the below table.

Par. No.	Pollutant Criteria	Monitoring Period End Date	Outfall	Benchmark Value	Measured Value	Limit Exceedance Percent
290.	Copper	3/31/2017	001	3.8 µg/L	28 µg/L	737%
291.	Copper	6/30/2017	001	3.8 µg/L	58 µg/L	1,526%
292.	Copper	6/30/2018	001	3.8 µg/L	87 µg/L	2,289%
293.	Copper	9/30/2018	001	3.8 µg/L	45 µg/L	1,184%
294.	Copper	9/30/2019	001	3.8 µg/L	48 µg/L	1,263%
295.	Copper	12/31/2020	001	3.8 µg/L	730 µg/L	19,211%
296.	Copper	3/31/2021	001	3.8 µg/L	370 µg/L	9,737%
297.	Copper	9/30/2021	001	5.19 µg/L	130 µg/L	2,505%

298. Schnitzer's four-quarter average copper concentrations at the Concord-Poplar Facility have exceeded the 2015 MSGP benchmark value of 3.8 and/or the 2021 MSGP benchmark value of 5.19 micrograms per liter 27 times since the fourth quarter of 2016.

299. Schnitzer's discharges of copper from the Concord-Poplar Facility have triggered the MSGPs' corrective action and/or AIM requirements 27 times since the fourth quarter of 2016, as detailed in the below table.

Par. No.	Pollutant Criteria	Date Corrective Action Triggered	Outfall	Benchmark Value	Annual Average
300.	Copper	3/31/2017	001	3.8 µg/L	6.52 µg/L
301.	Copper	3/31/2017	002	3.8 µg/L	165 µg/L
302.	Copper	6/30/2017	001	3.8 µg/L	13.3 µg/L
303.	Copper	6/30/2017	002	3.8 µg/L	195 µg/L
304.	Copper	6/30/2017	003	3.8 µg/L	32.5 µg/L
305.	Copper	12/31/2017	001	3.8 µg/L	13.3 µg/L
306.	Copper	12/31/2017	002	3.8 µg/L	195. µg/L
307.	Copper	3/31/2018	001	3.8 µg/L	15.0 µg/L
308.	Copper	3/31/2018	002	3.8 µg/L	207. µg/L
309.	Copper	3/31/2018	003	3.8 µg/L	36.8 µg/L
310.	Copper	6/30/2018	001	3.8 µg/L	10.5 µg/L

311.	Copper	6/30/2018	002	3.8 µg/L	63.5 µg/L
312.	Copper	6/30/2018	003	3.8 µg/L	102. µg/L
313.	Copper	9/30/2018	001	3.8 µg/L	4.63 µg/L
314.	Copper	9/30/2018	002	3.8 µg/L	144. µg/L
315.	Copper	3/31/2019	001	3.8 µg/L	4.63 µg/L
316.	Copper	6/30/2019	002	3.8 µg/L	144. µg/L
317.	Copper	9/30/2019	001	3.8 µg/L	23.9 µg/L
318.	Copper	9/30/2019	002	3.8 µg/L	151. µg/L
319.	Copper	12/31/2019	001	3.8 µg/L	23.0 µg/L
320.	Copper	9/30/2020	001	3.8 µg/L	23.0 µg/L
321.	Copper	9/30/2020	002	3.8 µg/L	129. µg/L
322.	Copper	12/31/2020	002	3.8 µg/L	26.2 µg/L
323.	Copper	3/31/2021	001	3.8 µg/L	30.5 µg/L
324.	Copper	3/31/2021	002	3.8 µg/L	38.2 µg/L
325.	Copper	9/30/2021	001	5.19 µg/L	22 µg/L
326.	Copper	9/30/2021	002	5.19 µg/L	100 µg/L

327. Schnitzer's four-quarter average copper concentrations at the Concord-Sandquist Facility have exceeded the 2015 MSGP benchmark value for copper of 3.8 micrograms per liter 13 times since the fourth quarter of 2016.

328. Schnitzer's discharges of copper from the Concord-Sandquist Facility have triggered the MSGPs' corrective action and/or AIM requirements 13 times since the fourth quarter of 2016, as detailed in the below table.

Par. No.	**Pollutant Criteria**	**Date Corrective Action Triggered**	**Outfall**	**Benchmark Value**	**Annual Average**
329.	Copper	3/31/2017	001	3.8 µg/L	13.1 µg/L
330.	Copper	6/30/2017	001	3.8 µg/L	6.605 µg/L
331.	Copper	12/31/2017	001	3.8 µg/L	6.62 µg/L
332.	Copper	3/31/2018	001	3.8 µg/L	79.1 µg/L
333.	Copper	6/30/2018	001	3.8 µg/L	152 µg/L
334.	Copper	9/30/2018	001	3.8 µg/L	248 µg/L
335.	Copper	3/31/2019	001	3.8 µg/L	248 µg/L
336.	Copper	6/30/2019	001	3.8 µg/L	175 µg/L
337.	Copper	9/30/2019	001	3.8 µg/L	123 µg/L
338.	Copper	12/31/2019	001	3.8 µg/L	20.1 µg/L
339.	Copper	9/30/2020	001	3.8 µg/L	445 µg/L
340.	Copper	12/31/2020	001	3.8 µg/L	648 µg/L
341.	Copper	3/31/2021	001	3.8 µg/L	695 µg/L

342. Schnitzer's four-quarter average copper concentrations at the Manchester Facility have exceeded the 2015 MSGP's benchmark value of 3.8 and/or the 2021 MSGP benchmark value of 5.19 micrograms per liter 13 times since the fourth quarter of 2016.

343. Schnitzer's discharges of copper from the Manchester Facility have triggered the MSGPs' corrective action and/or AIM requirements 13 times since the fourth quarter of 2016, as detailed in the below table.

Par. No.	Pollutant Criteria	Date Corrective Action Triggered	Outfall	Benchmark Value	Annual Average
344.	Copper	3/31/2017	001	0.0038 mg/L	0.00715 mg/L
345.	Copper	6/30/2017	001	0.0038 mg/L	0.0216 mg/L
346.	Copper	12/31/2017	001	3.8 µg/L	21.6 µg/L
347.	Copper	3/31/2018	001	3.8 µg/L	21.5 µg/L
348.	Copper	6/30/2018	001	3.8 µg/L	36.3 µg/L
349.	Copper	9/30/2018	001	3.8 µg/L	33.0 µg/L
350.	Copper	3/31/2019	001	3.8 µg/L	33.1 µg/L
351.	Copper	6/30/2019	001	3.8 µg/L	33.1 µg/L
352.	Copper	9/30/2019	001	3.8 µg/L	23.3 µg/L
353.	Copper	9/30/2020	001	3.8 µg/L	12.2 µg/L
354.	Copper	12/31/2020	001	3.8 µg/L	195 µg/L
355.	Copper	3/31/2021	001	3.8 µg/L	287 µg/L
356.	Copper	9/30/2021	001	5.19 µg/L	130 µg/L

Pollutant: Iron

357. The Facilities' discharges of iron contribute to the degradation of the Merrimack River and the South End Marsh Wetland Complex and to the violation of state water quality standards for New Hampshire.

358. Iron harms aquatic environments by causing turbidity and suspended solids. Iron solids in the water smother invertebrates, microbes, and eggs; impair the respiration of aquatic animals; and decrease reproduction rates.

359. Iron harms humans both as a substance that is toxic in high amounts and as a nuisance.

Iron in drinking water impairs taste, clogs pipes, and causes stains.

360. The Facilities' quarterly discharge monitoring reports show that they have discharged iron every quarter for which monitoring was conducted since the fourth quarter of 2016.

361. The Facilities have failed, and continue to fail, to use control measures to minimize discharges of iron.

362. The Concord-Poplar Facility has discharged concentrations of iron higher than the 2015 MSGP benchmark value for iron of 1 milligram per liter 24 times between the first quarter of 2017 and the first quarter of 2021, as detailed in the below table.

Par. No.	Pollutant Criteria	Monitoring Period End Date	Outfall	Benchmark Value	Measured Value	Limit Exceedance Percent
363.	Iron	3/31/2017	001	1 mg/L	3.1 mg/L	310%
364.	Iron	3/31/2017	002	1 mg/L	37 mg/L	3,700%
365.	Iron	3/31/2017	003	1 mg/L	2.5 mg/L	250%
366.	Iron	6/30/2017	001	1 mg/L	2 mg/L	200%
367.	Iron	6/30/2017	002	1 mg/L	2 mg/L	200%
368.	Iron	6/30/2017	003	1 mg/L	2 mg/L	200%
369.	Iron	12/31/2017	001	1 mg/L	6.3 mg/L	630%
370.	Iron	12/31/2017	002	1 mg/L	1.9 mg/L	190%
371.	Iron	3/31/2018	001	1 mg/L	1.8 mg/L	180%
372.	Iron	3/31/2018	002	1 mg/L	5.4 mg/L	540%
373.	Iron	3/31/2018	003	1 mg/L	1.4 mg/L	140%
374.	Iron	6/30/2018	001	1 mg/L	15 mg/L	1,500%
375.	Iron	6/30/2018	002	1 mg/L	6.4 mg/L	640%
376.	Iron	6/30/2018	003	1 mg/L	11 mg/L	1,100%
377.	Iron	9/30/2018	001	1 mg/L	27 mg/L	2,700%
378.	Iron	9/30/2018	002	1 mg/L	4.9 mg/L	490%
379.	Iron	3/31/2019	001	1 mg/L	2.2 mg/L	220%
380.	Iron	6/30/2019	001	1 mg/L	4.6 mg/L	460%
381.	Iron	6/30/2019	002	1 mg/L	6.7 mg/L	670%
382.	Iron	9/30/2019	002	1 mg/L	5.6 mg/L	560%
383.	Iron	12/31/2019	001	1 mg/L	2.6 mg/L	260%
384.	Iron	9/30/2020	002	1 mg/L	46 mg/L	4,600%
385.	Iron	12/31/2020	002	1 mg/L	1.5 mg/L	150%
386.	Iron	3/31/2021	002	1 mg/L	3 mg/L	300%

387. The Concord-Sandquist Facility has discharged concentrations of iron higher than the

2015 MSGP benchmark value for iron of 1 milligram per liter 13 times between the first quarter of 2017 and the first quarter of 2021, as detailed in the below table.

Par. No.	Pollutant Criteria	Monitoring Period End Date	Outfall	Benchmark Value	Measured Value	Limit Exceedance Percent
388.	Iron	3/31/2017	001	1 mg/L	7.5 mg/L	750%
389.	Iron	6/30/2017	001	1 mg/L	3.6 mg/L	360%
390.	Iron	12/31/2017	001	1 mg/L	14 mg/L	1,400%
391.	Iron	3/31/2018	001	1 mg/L	5.8 mg/L	580%
392.	Iron	6/30/2018	001	1 mg/L	15 mg/L	1,500%
393.	Iron	9/30/2018	001	1 mg/L	18 mg/L	1,800%
394.	Iron	3/31/2019	001	1 mg/L	8.1 mg/L	810%
395.	Iron	6/30/2019	001	1 mg/L	12 mg/L	1,200%
396.	Iron	9/30/2019	001	1 mg/L	10 mg/L	1,000%
397.	Iron	12/31/2019	001	1 mg/L	11 mg/L	1,100%
398.	Iron	9/30/2020	001	1 mg/L	19 mg/L	1,900%
399.	Iron	12/31/2020	001	1 mg/L	11 mg/L	1,100%
400.	Iron	3/31/2021	001	1 mg/L	1.6 mg/L	160%

401. The Manchester Facility discharged concentrations of iron higher than the 2015 MSGP benchmark value for iron of 1 milligram per liter 12 times between the first quarter of 2017 and the first quarter of 2021, as detailed in the below table.

Par. No.	Pollutant Criteria	Monitoring Period End Date	Outfall	Benchmark Value	Measured Value	Limit Exceedance Percent
402.	Iron	3/31/2017	001	1 mg/L	2.6 mg/L	260%
403.	Iron	6/30/2017	001	1 mg/L	3.5 mg/L	350%
404.	Iron	12/31/2017	001	1 mg/L	4.1 mg/L	410%
405.	Iron	3/31/2018	001	1 mg/L	4.6 mg/L	460%
406.	Iron	6/30/2018	001	1 mg/L	2.6 mg/L	260%
407.	Iron	9/30/2018	001	1 mg/L	2.7 mg/L	270%
408.	Iron	3/31/2019	001	1 mg/L	13 mg/L	1,300%
409.	Iron	6/30/2019	001	1 mg/L	7.2 mg/L	720%
410.	Iron	9/30/2019	001	1 mg/L	3.5 mg/L	350%
411.	Iron	9/30/2020	001	1 mg/L	4.2 mg/L	420%
412.	Iron	12/31/2020	001	1 mg/L	56 mg/L	5,600%
413.	Iron	3/31/2021	001	1 mg/L	20 mg/L	2,000%

414. Schnitzer's four-quarter average iron concentrations at the Concord-Poplar Facility have

exceeded the 2015 MSGP benchmark value of 1 milligram per liter 27 times since the fourth quarter of 2016.

415. Schnitzer's discharges of iron from the Concord-Poplar Facility have triggered the 2015 MSGP corrective action and/or AIM requirements 27 times since the fourth quarter of 2016, as detailed in the below table.

Par. No.	Pollutant Criteria	Date Corrective Action Triggered	Outfall	Benchmark Value	Annual Average
416.	Iron	3/31/2017	001	1 mg/L	3.85 mg/L
417.	Iron	3/31/2017	002	1 mg/L	21.6 mg/L
418.	Iron	3/31/2017	003	1 mg/L	2.4 mg/L
419.	Iron	6/30/2017	001	1 mg/L	3.35 mg/L
420.	Iron	6/30/2017	002	1 mg/L	10.8 mg/L
421.	Iron	6/30/2017	003	1 mg/L	2.3 mg/L
422.	Iron	12/31/2017	001	1 mg/L	4.33 mg/L
423.	Iron	12/31/2017	002	1 mg/L	10.7 mg/L
424.	Iron	3/31/2018	001	1 mg/L	3.3 mg/L
425.	Iron	3/31/2018	002	1 mg/L	11.6 mg/L
426.	Iron	3/31/2018	003	1 mg/L	1.8 mg/L
427.	Iron	6/30/2018	001	1 mg/L	6.28 mg/L
428.	Iron	6/30/2018	002	1 mg/L	3.93 mg/L
429.	Iron	6/30/2018	003	1 mg/L	4.22 mg/L
430.	Iron	9/30/2018	001	1 mg/L	12.5 mg/L
431.	Iron	9/30/2018	002	1 mg/L	4.65 mg/L
432.	Iron	3/31/2019	001	1 mg/L	11.5 mg/L
433.	Iron	6/30/2019	001	1 mg/L	12.2 mg/L
434.	Iron	6/30/2019	002	1 mg/L	5.85 mg/L
435.	Iron	9/30/2019	001	1 mg/L	8.66 mg/L
436.	Iron	9/30/2019	002	1 mg/L	5.9 mg/L
437.	Iron	12/31/2019	001	1 mg/L	2.56 mg/L
438.	Iron	9/30/2020	001	1 mg/L	2.12 mg/L
439.	Iron	9/30/2020	002	1 mg/L	15.8 mg/L
440.	Iron	12/31/2020	002	1 mg/L	14.9 mg/L
441.	Iron	3/31/2021	001	1 mg/L	1.04 mg/L
442.	Iron	3/31/2021	002	1 mg/L	14.0 mg/L

443. Schnitzer's four-quarter average iron concentrations at the Concord-Sandquist Facility have exceeded the 2015 MSGP' benchmark value of 1 milligram per liter 13 times since the fourth quarter of 2016.

444. Schnitzer's discharges of iron from the Concord-Sandquist Facility have triggered the 2015 MSGP corrective action and/or AIM requirements 13 times since the fourth quarter of 2016.

Par. No.	Pollutant Criteria	Date Corrective Action Triggered	Outfall	Benchmark Value	Annual Average
445.	Iron	3/31/2017	001	1 mg/L	6.78 mg/L
446.	Iron	6/30/2017	001	1 mg/L	7.12 mg/L
447.	Iron	12/31/2017	001	1 mg/L	9.28 mg/L
448.	Iron	3/31/2018	001	1 mg/L	7.73 mg/L
449.	Iron	6/30/2018	001	1 mg/L	9.60 mg/L
450.	Iron	9/30/2018	001	1 mg/L	13.2 mg/L
451.	Iron	3/31/2019	001	1 mg/L	11.7 mg/L
452.	Iron	6/30/2019	001	1 mg/L	13.3 mg/L
453.	Iron	9/30/2019	001	1 mg/L	12.0 mg/L
454.	Iron	12/31/2019	001	1 mg/L	10.3 mg/L
455.	Iron	9/30/2020	001	1 mg/L	13. mg/L
456.	Iron	12/31/2020	001	1 mg/L	12.8 mg/L
457.	Iron	3/31/2021	001	1 mg/L	10.7 mg/L

458. Schnitzer's four-quarter average iron concentrations at the Manchester Facility have exceeded the 2015 MSGP benchmark value of 1 milligram per liter 12 times since the fourth quarter of 2016.

459. Schnitzer's discharges of iron from the Manchester Facility have triggered the 2015 MSGP corrective action and/or AIM requirements 12 times since the fourth quarter of 2016.

Par. No.	Pollutant Criteria	Date Corrective Action Triggered	Outfall	Benchmark Value	Annual Average
460.	Iron	3/31/2017	001	1 mg/L	9.3 mg/L
461.	Iron	6/30/2017	001	1 mg/L	9.53 mg/L
462.	Iron	12/31/2017	001	1 mg/L	5.30 mg/L
463.	Iron	3/31/2018	001	1 mg/L	3.7 mg/L
464.	Iron	6/30/2018	001	1 mg/L	3.7 mg/L
465.	Iron	9/30/2018	001	1 mg/L	3.5 mg/L
466.	Iron	3/31/2019	001	1 mg/L	5.72 mg/L
467.	Iron	6/30/2019	001	1 mg/L	6.38 mg/L
468.	Iron	9/30/2019	001	1 mg/L	6.6 mg/L

469.	Iron	9/30/2020	001	1 mg/L	6.97 mg/L
470.	Iron	12/31/2020	001	1 mg/L	17.7 mg/L
471.	Iron	3/31/2021	001	1 mg/L	20.9 mg/L

Pollutant: Lead

472. The Facilities' discharges of lead contribute to the degradation of the Merrimack River and the South End Marsh Wetland Complex and to the violation of state water quality standards for New Hampshire.

473. Lead is toxic to humans and animals (including all aquatic organisms), even in very small amounts.

474. Low levels of lead can impair the brain, kidney, heart, blood, lungs, bones, immune system, and reproductive systems. Lead exposure can cause development issues, including decreased cognitive function and decreased birthweight and size. Lead is linked to increased risk of heart disease and cancer.

475. The Facilities' quarterly discharge monitoring reports show that they have discharged lead every quarter for which monitoring was conducted since the fourth quarter of 2016.

476. The Facilities have failed, and continue to fail, to use control measures to minimize discharges of lead.

477. The Concord-Poplar Facility has discharged concentrations of lead higher than the MSGPs' benchmark values for lead of 0.014 milligrams per liter 16 times between the first quarter of 2017 and the third quarter of 2021, as detailed in the below table.

Par. No.	**Pollutant Criteria**	**Monitoring Period End Date**	**Outfall**	**Benchmark Value**	**Measured Value**	**Limit Exceedance Percent**
478.	Lead	3/31/2017	001	0.014 mg/L	0.036 mg/L	257%
479.	Lead	3/31/2017	002	0.014 mg/L	0.39 mg/L	2,786%
480.	Lead	3/31/2017	003	0.014 mg/L	0.066 mg/L	471%
481.	Lead	6/30/2017	001	0.014 mg/L	0.043 mg/L	307%

482.	Lead	6/30/2017	002	0.014 mg/L	0.07 mg/L	500%
483.	Lead	6/30/2017	003	0.014 mg/L	0.082 mg/L	586%
484.	Lead	3/31/2018	002	0.014 mg/L	0.03 mg/L	214%
485.	Lead	6/30/2018	002	0.014 mg/L	0.058 mg/L	414%
486.	Lead	6/30/2018	003	0.014 mg/L	0.17 mg/L	1,214%
487.	Lead	9/30/2018	002	0.014 mg/L	0.051 mg/L	364%
488.	Lead	9/30/2019	002	0.014 mg/L	0.039 mg/L	279%
489.	Lead	9/30/2020	002	0.014 mg/L	1.3 mg/L	9,286%
490.	Lead	12/31/2020	002	0.014 mg/L	0.019 mg/L	136%
491.	Lead	3/31/2021	002	0.014 mg/L	0.02 mg/L	143%
492.	Lead	9/30/2021	001	14 µg/L	24 µg/L	171%
493.	Lead	9/30/2021	002	14 µg/L	59 µg/L	421%

494. The Concord-Sandquist Facility has discharged concentrations of lead higher than the MSGPs' benchmark value for lead of 0.014 milligrams per liter 12 times between the second quarter of 2017 and the first quarter of 2021, as detailed in the below table.

Par. No.	**Pollutant Criteria**	**Monitoring Period End Date**	**Outfall**	**Benchmark Value**	**Measured Value**	**Limit Exceedance Percent**
495.	Lead	6/30/2017	001	0.014 mg/L	0.062 mg/L	443%
496.	Lead	12/31/2017	001	0.014 mg/L	0.077 mg/L	550%
497.	Lead	3/31/2018	001	0.014 mg/L	0.13 mg/L	929%
498.	Lead	6/30/2018	001	0.014 mg/L	0.088 mg/L	629%
499.	Lead	9/30/2018	001	0.014 mg/L	0.3 mg/L	2143%
500.	Lead	3/31/2019	001	0.014 mg/L	0.058 mg/L	414%
501.	Lead	6/30/2019	001	0.014 mg/L	0.073 mg/L	521%
502.	Lead	9/30/2019	001	0.014 mg/L	0.055 mg/L	393%
503.	Lead	12/31/2019	001	0.014 mg/L	0.13 mg/L	929%
504.	Lead	9/30/2020	001	0.014 mg/L	0.68 mg/L	4857%
505.	Lead	12/31/2020	001	0.014 mg/L	0.49 mg/L	3500%
506.	Lead	3/31/2021	001	0.014 mg/L	0.039 mg/L	279%

507. The Manchester Facility discharged concentrations of lead higher than the MSGPs' benchmark value for lead of 0.014 milligrams per liter 13 times between the first quarter of 2017 and the third quarter of 2021.

Par. No.	**Pollutant Criteria**	**Monitoring Period End Date**	**Outfall**	**Benchmark Value**	**Measured Value**	**Limit Exceedance Percent**
508.	Lead	3/31/2017	001	0.014 mg/L	0.023 mg/L	164%

509.	Lead	6/30/2017	001	0.014 mg/L	0.062 mg/L	443%
510.	Lead	12/31/2017	001	0.014 mg/L	0.058 mg/L	414%
511.	Lead	3/31/2018	001	0.014 mg/L	0.032 mg/L	229%
512.	Lead	6/30/2018	001	0.014 mg/L	0.031 mg/L	221%
513.	Lead	9/30/2018	001	0.014 mg/L	0.027 mg/L	193%
514.	Lead	3/31/2019	001	0.014 mg/L	0.13 mg/L	929%
515.	Lead	6/30/2019	001	0.014 mg/L	0.14 mg/L	1,000%
516.	Lead	9/30/2019	001	0.014 mg/L	0.027 mg/L	193%
517.	Lead	9/30/2020	001	0.014 mg/L	0.045 mg/L	321%
518.	Lead	12/31/2020	001	0.014 mg/L	0.48 mg/L	3,429%
519.	Lead	3/31/2021	001	0.014 mg/L	0.26 mg/L	1,857%
520.	Lead	9/30/2021	001	14 µg/L	68 µg/L	486%

521. Schnitzer's four-quarter average lead concentrations at the Concord-Poplar Facility have exceeded the MSGPs' benchmark value of 0.014 milligrams per liter 19 times since the fourth quarter of 2016.

522. Schnitzer's discharges of lead from the Concord-Poplar Facility have triggered the MSGPs' corrective action and/or AIM requirements 19 times since the fourth quarter of 2016, as detailed in the below table.

Par. No.	**Pollutant Criteria**	**Date Corrective Action Triggered**	**Outfall**	**Benchmark Value**	**Annual Average**
523.	Lead	3/31/2017	001	0.014 mg/L	0.0495 mg/L
524.	Lead	3/31/2017	002	0.014 mg/L	0.321 mg/L
525.	Lead	3/31/2017	003	0.014 mg/L	0.0593 mg/L
526.	Lead	6/30/2017	001	0.014 mg/L	0.0582 mg/L
527.	Lead	6/30/2017	002	0.014 mg/L	0.141 mg/L
528.	Lead	6/30/2017	003	0.014 mg/L	0.065 mg/L
529.	Lead	12/31/2017	001	0.014 mg/L	0.043 mg/L
530.	Lead	12/31/2017	002	0.014 mg/L	0.128 mg/L
531.	Lead	3/31/2018	001	0.014 mg/L	0.021 mg/L
532.	Lead	3/31/2018	002	0.014 mg/L	0.123 mg/L
533.	Lead	3/31/2018	003	0.014 mg/L	0.0475 mg/L
534.	Lead	6/30/2018	002	0.014 mg/L	0.0398 mg/L
535.	Lead	6/30/2018	003	0.014 mg/L	0.0825 mg/L
536.	Lead	9/30/2018	002	0.014 mg/L	0.035 mg/L
537.	Lead	6/30/2019	002	0.014 mg/L	0.0351 mg/L
538.	Lead	9/30/2019	002	0.014 mg/L	0.0374 mg/L
539.	Lead	9/30/2020	002	0.014 mg/L	0.348 mg/L

540.	Lead	12/31/2020	002	0.014 mg/L	0.34 mg/L
541.	Lead	3/31/2021	002	0.014 mg/L	0.344 mg/L

542. Schnitzer's four-quarter average lead concentrations at the Concord-Sandquist Facility have exceeded the MSGPs' benchmark value of 0.014 milligrams per liter 14 times since the fourth quarter of 2016.

543. Schnitzer's discharges of lead from the Concord-Sandquist Facility have triggered the MSGPs' corrective action and/or AIM requirements 14 times since the fourth quarter of 2016, as detailed in the below table.

Par. No.	**Pollutant Criteria**	**Date Corrective Action Triggered**	**Outfall**	**Benchmark Value**	**Annual Average**
544.	Lead	3/31/2017	001	0.014 mg/L	0.0433 mg/L
545.	Lead	6/30/2017	001	0.014 mg/L	0.0543 mg/L
546.	Lead	12/31/2017	001	0.014 mg/L	0.0617 mg/L
547.	Lead	3/31/2018	001	0.014 mg/L	0.0693 mg/L
548.	Lead	6/30/2018	001	0.014 mg/L	0.0892 mg/L
549.	Lead	9/30/2018	001	0.014 mg/L	0.149 mg/L
550.	Lead	3/31/2019	001	0.014 mg/L	0.144 mg/L
551.	Lead	6/30/2019	001	0.014 mg/L	0.13 mg/L
552.	Lead	9/30/2019	001	0.014 mg/L	0.121 mg/L
553.	Lead	12/31/2019	001	0.014 mg/L	0.079 mg/L
554.	Lead	9/30/2020	001	0.014 mg/L	0.235 mg/L
555.	Lead	12/31/2020	001	0.014 mg/L	0.339 mg/L
556.	Lead	3/31/2021	001	0.014 mg/L	0.335 mg/L

557. Schnitzer's four-quarter average lead concentrations at the Manchester Facility have exceeded the MSGPs' benchmark value of 0.014 milligrams per liter 13 times since the fourth quarter of 2016.

558. Schnitzer's discharges of lead from the Manchester Facility have triggered the MSGPs' corrective action and/or AIM requirements 13 times since the fourth quarter of 2016, as detailed in the below table.

Par. No.	Pollutant Criteria	Date Corrective Action Triggered	Outfall	Benchmark Value	Annual Average
559.	Lead	3/31/2017	001	0.014 mg/L	0.119 mg/L
560.	Lead	6/30/2017	001	0.014 mg/L	0.129 mg/L
561.	Lead	12/31/2017	001	0.014 mg/L	0.0808 mg/L
562.	Lead	3/31/2018	001	0.014 mg/L	0.0437 mg/L
563.	Lead	6/30/2018	001	0.014 mg/L	0.0457 mg/L
564.	Lead	9/30/2018	001	0.014 mg/L	0.037 mg/L
565.	Lead	3/31/2019	001	0.014 mg/L	0.055 mg/L
566.	Lead	6/30/2019	001	0.014 mg/L	0.082 mg/L
567.	Lead	9/30/2019	001	0.014 mg/L	0.0810 mg/L
568.	Lead	9/30/2020	001	0.014 mg/L	0.0855 mg/L
569.	Lead	12/31/2020	001	0.014 mg/L	0.173 mg/L
570.	Lead	3/31/2021	001	0.014 mg/L	0.203 mg/L
571.	Lead	9/30/2021	001	14 µg/L	68 µg/L

Pollutant: Zinc

572. The Facilities' discharges of zinc contribute to the degradation of the Merrimack River and the South End Marsh Wetland Complex and to the violation of state water quality standards for New Hampshire.

573. When ingested, zinc may cause health problems in humans, including brain damage, infertility and developmental issues, pancreatic damage, anemia, nausea, vomiting, and stomach cramps.

574. Zinc is toxic to humans and aquatic organisms in high amounts, and it reacts with chemicals like cadmium to intensify their toxicity. Zinc bioaccumulates in aquatic animals.

575. The Facilities' quarterly discharge monitoring reports show that they have discharged zinc every quarter for which monitoring was conducted since the fourth quarter of 2016.

576. The Facilities have failed, and continue to fail, to use control measures to minimize discharges of zinc.

577. The Concord-Poplar Facility has discharged concentrations of zinc higher than the 2015 MSGP benchmark value for zinc of 0.04 milligrams per liter and/or the 2021 MSGP benchmark

value for zinc of 37 micrograms per liter 24 times between the first quarter of 2017 and the third quarter of 2021, as detailed in the below table.

Par. No.	Pollutant Criteria	Monitoring Period End Date	Outfall	Benchmark Value	Measured Value	Limit Exceedance Percent
578.	Zinc	3/31/2017	001	0.04 mg/L	0.16 mg/L	400%
579.	Zinc	3/31/2017	002	0.04 mg/L	1.5 mg/L	3,750%
580.	Zinc	3/31/2017	003	0.04 mg/L	0.14 mg/L	350%
581.	Zinc	6/30/2017	001	0.04 mg/L	0.2 mg/L	500%
582.	Zinc	6/30/2017	002	0.04 mg/L	0.25 mg/L	625%
583.	Zinc	6/30/2017	003	0.04 mg/L	0.3 mg/L	750%
584.	Zinc	12/31/2017	002	0.04 mg/L	0.14 mg/L	350%
585.	Zinc	3/31/2018	001	0.04 mg/L	0.07 mg/L	175%
586.	Zinc	3/31/2018	002	0.04 mg/L	0.16 mg/L	400%
587.	Zinc	3/31/2018	003	0.04 mg/L	0.047 mg/L	118%
588.	Zinc	6/30/2018	001	0.04 mg/L	0.041 mg/L	103%
589.	Zinc	6/30/2018	002	0.04 mg/L	0.19 mg/L	475%
590.	Zinc	6/30/2018	003	0.04 mg/L	0.48 mg/L	1,200%
591.	Zinc	9/30/2018	002	0.04 mg/L	0.16 mg/L	400%
592.	Zinc	3/31/2019	001	0.04 mg/L	0.08 mg/L	200%
593.	Zinc	6/30/2019	001	0.04 mg/L	0.062 mg/L	155%
594.	Zinc	9/30/2019	002	0.04 mg/L	0.31 mg/L	775%
595.	Zinc	12/31/2019	001	0.04 mg/L	0.051 mg/L	128%
596.	Zinc	9/30/2020	002	0.04 mg/L	3.1 mg/L	7,750%
597.	Zinc	12/31/2020	002	0.04 mg/L	0.07 mg/L	175%
598.	Zinc	3/31/2021	001	0.04 mg/L	0.12 mg/L	300%
599.	Zinc	3/31/2021	002	0.04 mg/L	0.098 mg/L	245%
600.	Zinc	9/30/2021	001	37 µg/L	90 µg/L	243%
601.	Zinc	9/30/2021	002	37 µg/L	260 µg/L	703%

602. The Concord-Sandquist Facility has discharged concentrations of zinc higher than the 2015 MSGP benchmark value for zinc of 0.04 milligrams per liter 13 times between the first quarter of 2017 and the first quarter of 2021, as detailed in the below table.

Par. No.	Pollutant Criteria	Monitoring Period End Date	Outfall	Benchmark Value	Measured Value	Limit Exceedance Percent
603.	Zinc	3/31/2017	001	0.04 mg/L	0.12 mg/L	300%
604.	Zinc	6/30/2017	001	0.04 mg/L	0.14 mg/L	350%
605.	Zinc	12/31/2017	001	0.04 mg/L	0.35 mg/L	875%
606.	Zinc	3/31/2018	001	0.04 mg/L	0.41 mg/L	1,025%

607.	Zinc	6/30/2018	001	0.04 mg/L	0.37 mg/L	925%
608.	Zinc	9/30/2018	001	0.04 mg/L	0.94 mg/L	2,350%
609.	Zinc	3/31/2019	001	0.04 mg/L	0.31 mg/L	775%
610.	Zinc	6/30/2019	001	0.04 mg/L	0.44 mg/L	1,100%
611.	Zinc	9/30/2019	001	0.04 mg/L	0.16 mg/L	400%
612.	Zinc	12/31/2019	001	0.04 mg/L	0.54 mg/L	1,350%
613.	Zinc	9/30/2020	001	0.04 mg/L	1.5 mg/L	3,750%
614.	Zinc	12/31/2020	001	0.04 mg/L	0.84 mg/L	2,100%
615.	Zinc	3/31/2021	001	0.04 mg/L	0.11 mg/L	275%

616. The Manchester Facility discharged concentrations of zinc higher than the 2015 MSGP benchmark value for zinc of 0.04 milligrams per liter and/or the 2021 MSGP benchmark value for zinc of 37 micrograms per liter 13 times between the first quarter of 2017 and the third quarter of 2021, as detailed in the below table.

Par. No.	**Pollutant Criteria**	**Monitoring Period End Date**	**Outfall**	**Benchmark Value**	**Measured Value**	**Limit Exceedance Percent**
617.	Zinc	3/31/2017	001	0.04 mg/L	0.4 mg/L	1,000%
618.	Zinc	6/30/2017	001	0.04 mg/L	0.87 mg/L	2,175%
619.	Zinc	12/31/2017	001	0.04 mg/L	0.47 mg/L	1,175%
620.	Zinc	3/31/2018	001	0.04 mg/L	0.33 mg/L	825%
621.	Zinc	6/30/2018	001	0.04 mg/L	0.69 mg/L	1,725%
622.	Zinc	9/30/2018	001	0.04 mg/L	0.25 mg/L	625%
623.	Zinc	3/31/2019	001	0.04 mg/L	0.61 mg/L	1,525%
624.	Zinc	6/30/2019	001	0.04 mg/L	0.88 mg/L	2,200%
625.	Zinc	9/30/2019	001	0.04 mg/L	0.18 mg/L	450%
626.	Zinc	9/30/2020	001	0.04 mg/L	0.57 mg/L	1,425%
627.	Zinc	12/31/2020	001	0.04 mg/L	4.6 mg/L	11,500%
628.	Zinc	3/31/2021	001	0.04 mg/L	1.7 mg/L	4,250%
629.	Zinc	9/30/2021	001	37 µg/L	750 µg/L	2,027%

630. Schnitzer's four-quarter average zinc concentrations at the Concord-Poplar Facility have exceeded the 2015 MSGP's benchmark value of 0.04 and/or the 2021 MSGP benchmark value of 0.037 milligrams per liter 27 times since the fourth quarter of 2016.

631. Schnitzer's discharges of zinc from the Concord-Poplar Facility have triggered the MSGPs' corrective action and/or AIM requirements 27 times since the fourth quarter of 2016, as

detailed in the below table.

Par. No.	Pollutant Criteria	Date Corrective Action Triggered	Outfall	Benchmark Value	Annual Average
632.	Zinc	3/31/2017	001	0.04 mg/L	0.169 mg/L
633.	Zinc	3/31/2017	002	0.04 mg/L	1.24 mg/L
634.	Zinc	3/31/2017	003	0.04 mg/L	0.17 mg/L
635.	Zinc	6/30/2017	001	0.04 mg/L	0.210 mg/L
636.	Zinc	6/30/2017	002	0.04 mg/L	0.527 mg/L
637.	Zinc	6/30/2017	003	0.04 mg/L	0.203 mg/L
638.	Zinc	12/31/2017	001	0.04 mg/L	0.163 mg/L
639.	Zinc	12/31/2017	002	0.04 mg/L	0.557 mg/L
640.	Zinc	3/31/2018	001	0.04 mg/L	0.111 mg/L
641.	Zinc	3/31/2018	002	0.04 mg/L	0.513 mg/L
642.	Zinc	3/31/2018	003	0.04 mg/L	0.149 mg/L
643.	Zinc	6/30/2018	001	0.04 mg/L	0.081 mg/L
644.	Zinc	6/30/2018	002	0.04 mg/L	0.185 mg/L
645.	Zinc	6/30/2018	003	0.04 mg/L	0.242 mg/L
646.	Zinc	9/30/2018	002	0.04 mg/L	0.163 mg/L
647.	Zinc	3/31/2019	001	0.04 mg/L	0.0528 mg/L
648.	Zinc	6/30/2019	001	0.04 mg/L	0.0508 mg/L
649.	Zinc	6/30/2019	002	0.04 mg/L	0.130 mg/L
650.	Zinc	9/30/2019	001	0.04 mg/L	0.047 mg/L
651.	Zinc	9/30/2019	002	0.04 mg/L	0.168 mg/L
652.	Zinc	12/31/2019	001	0.04 mg/L	0.0548 mg/L
653.	Zinc	9/30/2020	001	0.04 mg/L	0.0432 mg/L
654.	Zinc	9/30/2020	002	0.04 mg/L	0.895 mg/L
655.	Zinc	12/31/2020	002	0.04 mg/L	0.873 mg/L
656.	Zinc	3/31/2021	001	0.04 mg/L	0.0577 mg/L
657.	Zinc	3/31/2021	002	0.04 mg/L	0.894 mg/L
658.	Zinc	9/30/2021	002	37 µg/L	882 µg/L

659. Schnitzer's four-quarter average zinc concentrations at the Concord-Sandquist Facility have exceeded the 2015 MSGP benchmark value for zinc of 0.04 milligrams per liter 13 times since the fourth quarter of 2016.

660. Schnitzer's discharges of zinc from the Concord-Sandquist Facility have triggered the MSGPs' corrective action and/or AIM requirements 13 times since the fourth quarter of 2016, as detailed in the below table.

Par. No.	Pollutant Criteria	Date Corrective Action Triggered	Outfall	Benchmark Value	Annual Average
661.	Zinc	3/31/2017	001	0.04 mg/L	0.265 mg/L
662.	Zinc	6/30/2017	001	0.04 mg/L	0.26 mg/L
663.	Zinc	12/31/2017	001	0.04 mg/L	0.277 mg/L
664.	Zinc	3/31/2018	001	0.04 mg/L	0.255 mg/L
665.	Zinc	6/30/2018	001	0.04 mg/L	0.318 mg/L
666.	Zinc	9/30/2018	001	0.04 mg/L	0.517 mg/L
667.	Zinc	3/31/2019	001	0.04 mg/L	0.507 mg/L
668.	Zinc	6/30/2019	001	0.04 mg/L	0.515 mg/L
669.	Zinc	9/30/2019	001	0.04 mg/L	0.462 mg/L
670.	Zinc	12/31/2019	001	0.04 mg/L	0.363 mg/L
671.	Zinc	9/30/2020	001	0.04 mg/L	0.66 mg/L
672.	Zinc	12/31/2020	001	0.04 mg/L	0.76 mg/L
673.	Zinc	3/31/2021	001	0.04 mg/L	0.747 mg/L

674. Schnitzer's four-quarter average zinc concentrations at the Manchester Facility have exceeded the 2015 MSGP benchmark value for zinc of 0.04 milligrams per liter and/or the 2021 MSGP benchmark value for zinc of 37 micrograms per liter 13 times since the fourth quarter of 2016.

675. Schnitzer's discharges of zinc from the Manchester Facility have triggered the MSGPs' corrective action and/or AIM requirements 13 times since the fourth quarter of 2016, as detailed in the below table.

Par. No.	Pollutant Criteria	Date Corrective Action Triggered	Outfall	Benchmark Value	Annual Average
676.	Zinc	3/31/2017	001	0.04 mg/L	0.745 mg/L
677.	Zinc	6/30/2017	001	0.04 mg/L	0.925 mg/L
678.	Zinc	12/31/2017	001	0.04 mg/L	0.667 mg/L
679.	Zinc	3/31/2018	001	0.04 mg/L	0.517 mg/L
680.	Zinc	6/30/2018	001	0.04 mg/L	0.59 mg/L
681.	Zinc	9/30/2018	001	0.04 mg/L	0.435 mg/L
682.	Zinc	3/31/2019	001	0.04 mg/L	0.47 mg/L
683.	Zinc	6/30/2019	001	0.04 mg/L	0.607 mg/L
684.	Zinc	9/30/2019	001	0.04 mg/L	0.48 mg/L
685.	Zinc	9/30/2020	001	0.04 mg/L	0.56 mg/L
686.	Zinc	12/31/2020	001	0.04 mg/L	1.56 mg/L

687.	Zinc	3/31/2021	001	0.04 mg/L	1.76 mg/L
688.	Zinc	9/30/2021	001	37 µg/L	750 µg/L

Pollutant: Chemical Oxygen Demand ("COD")

689. The Facilities' discharges of COD contribute to the degradation of the Merrimack River and the South End Marsh Wetland Complex and to the violation of state water quality standards for New Hampshire.

690. COD is an indicator for the presence of organic pollution. Organic pollution contributes to low dissolved oxygen levels and eutrophication, which can result in harmful algal and cyanobacteria blooms, a proliferation of nuisance and invasive species, discolored water, harmful benthic deposits, and scum.

691. The Facilities' quarterly discharge monitoring reports show that they have discharged COD every quarter for which monitoring was conducted since the fourth quarter of 2016.

692. The Facilities have failed, and continue to fail, to use control measures to minimize discharges of COD.

693. The Concord-Poplar Facility has discharged concentrations of COD higher than the 2015 MSGP benchmark value for COD of 120 milligrams per liter six times between the first quarter of 2017 and the third quarter of 2020, as detailed in the below table.

Par. No.	**Pollutant Criteria**	**Monitoring Period End Date**	**Outfall**	**Benchmark Value**	**Measured Value**	**Limit Exceedance Percent**
694.	COD	3/31/2017	002	120 mg/L	470 mg/L	392%
695.	COD	6/30/2017	002	120 mg/L	160 mg/L	133%
696.	COD	6/30/2017	003	120 mg/L	130 mg/L	108%
697.	COD	6/30/2018	002	120 mg/L	160 mg/L	133%
698.	COD	9/30/2019	002	120 mg/L	210 mg/L	175%
699.	COD	9/30/2020	002	120 mg/L	180 mg/L	150%

700. The Concord-Sandquist Facility has discharged concentrations of COD higher than the

2015 MSGP benchmark value for COD of 120 milligrams per liter 12 times between the first quarter of 2017 and the first quarter of 2021, as detailed in the below table.

Par. No.	Pollutant Criteria	Monitoring Period End Date	Outfall	Benchmark Value	Measured Value	Limit Exceedance Percent
701.	COD	3/31/2017	001	120 mg/L	530 mg/L	442%
702.	COD	12/31/2017	001	120 mg/L	240 mg/L	200%
703.	COD	3/31/2018	001	120 mg/L	170 mg/L	142%
704.	COD	6/30/2018	001	120 mg/L	1,100 mg/L	917%
705.	COD	9/30/2018	001	120 mg/L	320 mg/L	267%
706.	COD	3/31/2019	001	120 mg/L	410 mg/L	342%
707.	COD	6/30/2019	001	120 mg/L	220 mg/L	183%
708.	COD	9/30/2019	001	120 mg/L	140 mg/L	117%
709.	COD	12/31/2019	001	120 mg/L	290 mg/L	242%
710.	COD	9/30/2020	001	120 mg/L	370 mg/L	308%
711.	COD	12/31/2020	001	120 mg/L	200 mg/L	167%
712.	COD	3/31/2021	001	120 mg/L	370 mg/L	308%

713. The Manchester Facility discharged concentrations of COD higher than the MSGPs' benchmark value for zinc of 120 milligrams per liter ten times between the first quarter of 2018 and the third quarter of 2021, as detailed in the below table.

Par. No.	Pollutant Criteria	Monitoring Period End Date	Outfall	Benchmark Value	Measured Value	Limit Exceedance Percent
714.	COD	3/31/2018	001	120 mg/L	180 mg/L	150%
715.	COD	6/30/2018	001	120 mg/L	150 mg/L	125%
716.	COD	9/30/2018	001	120 mg/L	160 mg/L	133%
717.	COD	3/31/2019	001	120 mg/L	350 mg/L	292%
718.	COD	6/30/2019	001	120 mg/L	330 mg/L	275%
719.	COD	9/30/2019	001	120 mg/L	150 mg/L	125%
720.	COD	9/30/2020	001	120 mg/L	190 mg/L	158%
721.	COD	12/31/2020	001	120 mg/L	630 mg/L	525%
722.	COD	3/31/2021	001	120 mg/L	340 mg/L	283%
723.	COD	9/30/2021	001	120 mg/L	160 mg/L	133%

724. Schnitzer's four-quarter average COD concentrations at the Concord-Poplar Facility have exceeded the MSGPs' benchmark value of 120 milligrams per liter eight times since the first

quarter of 2017.

725. Schnitzer's discharges of COD from the Concord-Poplar Facility have triggered the MSGPs' corrective action and/or AIM requirements eight times since the fourth quarter of 2016, as detailed in the below table.

Par. No.	Pollutant Criteria	Date Corrective Action Triggered	Outfall	Benchmark Value	Annual Average
726.	COD	3/31/2017	002	120 mg/L	270 mg/L
727.	COD	6/30/2017	002	120 mg/L	202 mg/L
728.	COD	12/31/2017	002	120 mg/L	200 mg/L
729.	COD	3/31/2018	002	120 mg/L	176 mg/L
730.	COD	9/30/2019	002	120 mg/L	135 mg/L
731.	COD	9/30/2020	002	120 mg/L	140 mg/L
732.	COD	12/31/2020	002	120 mg/L	124 mg/L
733.	COD	3/31/2021	002	120 mg/L	122 mg/L

734. Schnitzer's four-quarter average COD concentrations at the Concord-Sandquist Facility have exceeded the MSGPs' benchmark value of 120 milligrams per liter 13 times since the fourth quarter of 2016.

735. Schnitzer's discharges of COD from the Concord-Sandquist Facility have triggered the MSGPs' corrective action and/or AIM requirements 13 times since the fourth quarter of 2016, as detailed in the below table.

Par. No.	Pollutant Criteria	Date Corrective Action Triggered	Outfall	Benchmark Value	Annual Average
736.	COD	3/31/2017	001	120 mg/L	254 mg/L
737.	COD	6/30/2017	001	120 mg/L	262 mg/L
738.	COD	12/31/2017	001	120 mg/L	268 mg/L
739.	COD	3/31/2018	001	120 mg/L	260 mg/L
740.	COD	6/30/2018	001	120 mg/L	402 mg/L
741.	COD	9/30/2018	001	120 mg/L	458 mg/L
742.	COD	3/31/2019	001	120 mg/L	500 mg/L
743.	COD	6/30/2019	001	120 mg/L	512 mg/L
744.	COD	9/30/2019	001	120 mg/L	272 mg/L
745.	COD	12/31/2019	001	120 mg/L	265 mg/L
746.	COD	9/30/2020	001	120 mg/L	255 mg/L

747.	COD	12/31/2020	001	120 mg/L	250 mg/L
748.	COD	3/31/2021	001	120 mg/L	308 mg/L

749. Schnitzer's four-quarter average COD concentrations at the Manchester Facility have exceeded the MSGPs' benchmark value of 120 milligrams per liter 11 times since the fourth quarter of 2016.

750. Schnitzer's discharges of COD from the Manchester Facility have triggered the MSGPs' corrective action and/or AIM requirements 11 times since the fourth quarter of 2016, as detailed in the below table.

Par. No.	Pollutant Criteria	Date Corrective Action Triggered	Outfall	Benchmark Value	Annual Average
751.	COD	3/31/2017	001	120 mg/L	198 mg/L
752.	COD	6/30/2017	001	120 mg/L	178 mg/L
753.	COD	12/31/2017	001	120 mg/L	148 mg/L
754.	COD	6/30/2018	001	120 mg/L	138 mg/L
755.	COD	9/30/2018	001	120 mg/L	152 mg/L
756.	COD	3/31/2019	001	120 mg/L	210 mg/L
757.	COD	6/30/2019	001	120 mg/L	248 mg/L
758.	COD	9/30/2019	001	120 mg/L	248 mg/L
759.	COD	9/30/2020	001	120 mg/L	255 mg/L
760.	COD	12/31/2020	001	120 mg/L	325 mg/L
761.	COD	3/31/2021	001	120 mg/L	328 mg/L

Pollutant: Total Suspended Solids ("TSS")

762. The Facilities' discharges of TSS contribute to the degradation of the Merrimack River and the South End Marsh Wetland Complex and to the violation of state water quality standards for New Hampshire.

763. Elevated levels of TSS increase water turbidity and reduce the light available to desirable aquatic plants. TSS that settle out as bottom deposits can alter or destroy habitat for fish and other bottom-dwelling organisms.

764. The Facilities' quarterly discharge monitoring reports show that they have discharged

TSS every quarter for which monitoring was conducted since the fourth quarter of 2016.

765. The Facilities have failed, and continue to fail, to use control measures to minimize discharges of TSS.

766. The Concord-Poplar Facility has discharged concentrations of TSS higher than the 2015 MSGP benchmark value for TSS of 100 milligrams per liter eight times between the first quarter of 2017 and the third quarter of 2019, as detailed in the below table.

Par. No.	Pollutant Criteria	Monitoring Period End Date	Outfall	Benchmark Value	Measured Value	Limit Exceedance Percent
767.	TSS	3/31/2017	002	100 mg/L	730 mg/L	730%
768.	TSS	3/31/2017	003	100 mg/L	150 mg/L	150%
769.	TSS	6/30/2017	001	100 mg/L	250 mg/L	250%
770.	TSS	6/30/2017	002	100 mg/L	240 mg/L	240%
771.	TSS	6/30/2017	003	100 mg/L	400 mg/L	400%
772.	TSS	6/30/2018	002	100 mg/L	190 mg/L	190%
773.	TSS	6/30/2018	003	100 mg/L	180 mg/L	180%
774.	TSS	9/30/2020	002	100 mg/L	220 mg/L	220%

775. The Concord-Sandquist Facility has discharged concentrations of TSS higher than the 2015 MSGP benchmark value for TSS of 100 milligrams per liter four times between the third quarter of 2018 and the fourth quarter of 2020, as detailed in the below table.

Par. No.	Pollutant Criteria	Monitoring Period End Date	Outfall	Benchmark Value	Measured Value	Limit Exceedance Percent
776.	TSS	9/30/2018	001	100 mg/L	150 mg/L	150%
777.	TSS	12/31/2019	001	100 mg/L	130 mg/L	130%
778.	TSS	9/30/2020	001	100 mg/L	320 mg/L	320%
779.	TSS	12/31/2020	001	100 mg/L	180 mg/L	180%

780. The Manchester Facility has discharged concentrations of TSS higher than the 2015 MSGP benchmark value for TSS of 100 milligrams per liter three times between the first quarter of 2019 and the first quarter of 2021, as detailed in the below table.

Par. No.	Pollutant Criteria	Monitoring Period End Date	Outfall	Benchmark Value	Measured Value	Limit Exceedance Percent
781.	TSS	3/31/2019	001	100 mg/L	170 mg/L	170%
782.	TSS	12/31/2020	001	100 mg/L	720 mg/L	720%
783.	TSS	3/31/2021	001	100 mg/L	300 mg/L	300%

784. Schnitzer's four-quarter average TSS concentrations at the Concord-Poplar Facility have exceeded the MSGPs' benchmark value of 100 milligrams per liter eight times since the fourth quarter of 2016.

785. Schnitzer's discharges of TSS from the Concord-Poplar Facility have triggered the MSGPs' corrective action and/or AIM requirements eight times since the fourth quarter of 2016, as detailed in the below table.

Par. No.	Pollutant Criteria	Date Corrective Action Triggered	Outfall	Benchmark Value	Annual Average
786.	TSS	3/31/2017	002	100 mg/L	398. mg/L
787.	TSS	6/30/2017	002	100 mg/L	262 mg/L
788.	TSS	6/30/2017	003	100 mg/L	171 mg/L
789.	TSS	12/31/2017	002	100 mg/L	257 mg/L
790.	TSS	3/31/2018	002	100 mg/L	271 mg/L
791.	TSS	3/31/2018	003	100 mg/L	156 mg/L
792.	TSS	6/30/2018	002	100 mg/L	136 mg/L
793.	TSS	6/30/2018	003	100 mg/L	187 mg/L

794. Schnitzer's four-quarter average TSS concentrations at the Concord-Sandquist Facility have exceeded the MSGPs' benchmark value of 100 milligrams per liter three times since the fourth quarter of 2016.

795. Schnitzer's discharges of TSS from the Concord-Sandquist Facility have triggered the MSGPs' corrective action and/or AIM requirements three times since the fourth quarter of 2016, as detailed in the below table.

Par. No.	Pollutant Criteria	Date Corrective Action Triggered	Outfall	Benchmark Value	Annual Average
796.	TSS	9/30/2020	001	100 mg/L	125 mg/L

797.	TSS	12/31/2020	001	100 mg/L	164 mg/L
798.	TSS	3/31/2021	001	100 mg/L	162 mg/L

799. Schnitzer's four-quarter average TSS concentrations at the Manchester Facility have exceeded the MSGPs' benchmark value of 100 milligrams per liter four times since the fourth quarter of 2016.

800. Schnitzer's discharges of TSS from the Manchester Facility have triggered the MSGPs' corrective action and/or AIM requirements four times since the fourth quarter of 2016, as detailed in the below table.

Par. No.	**Pollutant Criteria**	**Date Corrective Action Triggered**	**Outfall**	**Benchmark Value**	**Annual Average**
801.	TSS	3/31/2017	001	100 mg/L	149 mg/L
802.	TSS	6/30/2017	001	100 mg/L	155 mg/L
803.	TSS	12/31/2020	001	100 mg/L	228 mg/L
804.	TSS	3/31/2021	001	100 mg/L	284 mg/L

Pollutant: Effluent that Contains Evidence of Stormwater Pollution

805. The Facilities' discharges of effluent that contains evidence of stormwater pollution contribute to the degradation of the Merrimack River and the South End Marsh Wetland Complex and to the violation of state water quality standards for New Hampshire.

806. The Facilities have failed, and continue to fail, to use control measures to minimize discharges of visible and malodorous pollutants.

807. Schnitzer has observed evidence of stormwater pollution in the effluent of the Concord-Poplar Facility at least five times since the fourth quarter of 2016.

808. Schnitzer's observations of evidence of stormwater pollution at the Concord-Poplar Facility have triggered the MSGPs' corrective action and/or AIM requirements five times since the fourth quarter of 2016, as detailed in the below table.

Par. No.	Monitoring Period	Description of Issue
809.	2016	"trace amounts of floating solids, a light brown color, and a diminished clarity in the samples collected. One sample had a slight sulfur odor."
810.	2017	"Stormwater runoff clarity ranged from clear to diminished. . . Two sampling events identified trace suspended solids."
811.	2018	"varying degrees of color, odor, clarity, and solid matter."
812.	2019	"varying degrees of color, odor, clarity, and solid matter."
813.	2020	"varying degrees of color, odor, clarity, and solid matter."

814. Schnitzer has observed evidence of stormwater pollution in the effluent of the Concord-Sandquist Facility at least four times since 2017.

815. Schnitzer's observations of evidence of stormwater pollution at the Concord-Sandquist Facility have triggered the MSGPs' corrective action and/or AIM requirements four times since 2017, as detailed in the below table.

Par. No.	Monitoring Period	Description of Issue
816.	2017	"Stormwater runoff was typically clear or light brown in color, clear to slightly cloudy in clarity"
817.	2018	"varying degrees of color, odor, clarity, and solid matter."
818.	2019	"varying degrees of color, odor, clarity, and solid matter."
819.	2020	"varying degrees of color, odor, clarity, and solid matter."

820. Schnitzer has observed evidence of stormwater pollution in the effluent of the Manchester Facility at least five times since 2016.

821. Schnitzer's observations of evidence of stormwater pollution at the Manchester Facility have triggered the MSGPs' corrective action and/or AIM requirements five times since 2016, as detailed in the below table.

Par. No.	Monitoring Period	Description of Issue
822.	2016	"diminished clarity, sulfur odor, some settled solids, and a grey color."
823.	2017	"typically clear or light brown in color, clear to slightly cloudy in clarity. . . Two sampling events identified little settled solids"
824.	2018	"varying degrees of color, odor, clarity, and solid matter."
825.	2019	"varying degrees of color, odor, clarity, and solid matter."

826.	2020	"varying degrees of color, odor, clarity, and solid matter."

Facility Inspections

827. Upon information and belief, facility inspections at the Concord-Poplar Facility revealed instances where discharges were not adequately controlled.

828. Upon information and belief, facility inspections at the Concord-Sandquist Facility revealed instances where discharges were not adequately controlled.

829. Upon information and belief, facility inspections at the Manchester Facility revealed instances where discharges were not adequately controlled.

830. Schnitzer's facility inspections which have revealed instances where discharges were not adequately controlled have triggered the MSGPs' corrective action and/or AIM requirements.

Monitoring and Reporting

831. Schnitzer has failed to conduct required quarterly benchmark and annual impaired waters monitoring at the Concord-Poplar Facility for the following pollutant criteria, on the following dates, and from the following outfalls:

Par. No.	**Pollutant Criteria**	**Monitoring Period End Date**	**Outfall**	**Type of Monitoring and Reporting Requirement**
832.	Aluminum	12/31/2016	001	Benchmark
833.	Aluminum	12/31/2016	002	Benchmark
834.	Aluminum	12/31/2016	003	Benchmark
835.	Chemical Oxygen Demand	12/31/2016	001	Benchmark
836.	Chemical Oxygen Demand	12/31/2016	002	Benchmark
837.	Chemical Oxygen Demand	12/31/2016	003	Benchmark
838.	Copper	12/31/2016	001	Benchmark
839.	Copper	12/31/2016	002	Benchmark
840.	Copper	12/31/2016	003	Benchmark
841.	Iron	12/31/2016	001	Benchmark
842.	Iron	12/31/2016	002	Benchmark
843.	Iron	12/31/2016	003	Benchmark
844.	Lead	12/31/2016	001	Benchmark
845.	Lead	12/31/2016	002	Benchmark
846.	Lead	12/31/2016	003	Benchmark

847.	Total Suspended Solids	12/31/2016	001	Benchmark
848.	Total Suspended Solids	12/31/2016	002	Benchmark
849.	Total Suspended Solids	12/31/2016	003	Benchmark
850.	Zinc	12/31/2016	001	Benchmark
851.	Zinc	12/31/2016	002	Benchmark
852.	Zinc	12/31/2016	003	Benchmark
853.	Aluminum	9/30/2017	001	Benchmark
854.	Aluminum	9/30/2017	002	Benchmark
855.	Aluminum	9/30/2017	003	Benchmark
856.	Aluminum	9/30/2017	001	Impaired waters
857.	Chemical Oxygen Demand	9/30/2017	001	Benchmark
858.	Chemical Oxygen Demand	9/30/2017	002	Benchmark
859.	Chemical Oxygen Demand	9/30/2017	003	Benchmark
860.	Copper	9/30/2017	001	Benchmark
861.	Copper	9/30/2017	002	Benchmark
862.	Copper	9/30/2017	003	Benchmark
863.	Dissolved oxygen	9/30/2017	001	Impaired waters
864.	Iron	9/30/2017	001	Benchmark
865.	Iron	9/30/2017	002	Benchmark
866.	Iron	9/30/2017	003	Benchmark
867.	Lead	9/30/2017	001	Benchmark
868.	Lead	9/30/2017	002	Benchmark
869.	Lead	9/30/2017	003	Benchmark
870.	pH	9/30/2017	001	Impaired waters
871.	Total Suspended Solids	9/30/2017	001	Benchmark
872.	Total Suspended Solids	9/30/2017	002	Benchmark
873.	Total Suspended Solids	9/30/2017	003	Benchmark
874.	Zinc	9/30/2017	001	Benchmark
875.	Zinc	9/30/2017	002	Benchmark
876.	Zinc	9/30/2017	003	Benchmark
877.	Aluminum	12/31/2017	003	Benchmark
878.	Chemical Oxygen Demand	12/31/2017	003	Benchmark
879.	Copper	12/31/2017	003	Benchmark
880.	Iron	12/31/2017	003	Benchmark
881.	Lead	12/31/2017	003	Benchmark
882.	Total Suspended Solids	12/31/2017	003	Benchmark
883.	Zinc	12/31/2017	003	Benchmark
884.	Aluminum	9/30/2018	003	Benchmark
885.	Chemical Oxygen Demand	9/30/2018	003	Benchmark
886.	Copper	9/30/2018	003	Benchmark
887.	Dissolved oxygen	9/30/2018	001	Impaired waters
888.	Iron	9/30/2018	003	Benchmark
889.	Lead	9/30/2018	003	Benchmark
890.	Total Suspended Solids	9/30/2018	003	Benchmark
891.	Zinc	9/30/2018	003	Benchmark

892.	Aluminum	12/31/2018	001	Benchmark
893.	Aluminum	12/31/2018	002	Benchmark
894.	Aluminum	12/31/2018	003	Benchmark
895.	Chemical Oxygen Demand	12/31/2018	001	Benchmark
896.	Chemical Oxygen Demand	12/31/2018	002	Benchmark
897.	Chemical Oxygen Demand	12/31/2018	003	Benchmark
898.	Copper	12/31/2018	001	Benchmark
899.	Copper	12/31/2018	002	Benchmark
900.	Copper	12/31/2018	003	Benchmark
901.	Iron	12/31/2018	001	Benchmark
902.	Iron	12/31/2018	002	Benchmark
903.	Iron	12/31/2018	003	Benchmark
904.	Lead	12/31/2018	001	Benchmark
905.	Lead	12/31/2018	002	Benchmark
906.	Lead	12/31/2018	003	Benchmark
907.	Total Suspended Solids	12/31/2018	001	Benchmark
908.	Total Suspended Solids	12/31/2018	002	Benchmark
909.	Total Suspended Solids	12/31/2018	003	Benchmark
910.	Zinc	12/31/2018	001	Benchmark
911.	Zinc	12/31/2018	002	Benchmark
912.	Zinc	12/31/2018	003	Benchmark
913.	Aluminum	3/31/2019	002	Benchmark
914.	Aluminum	3/31/2019	003	Benchmark
915.	Chemical Oxygen Demand	3/31/2019	002	Benchmark
916.	Chemical Oxygen Demand	3/31/2019	003	Benchmark
917.	Copper	3/31/2019	002	Benchmark
918.	Copper	3/31/2019	003	Benchmark
919.	Iron	3/31/2019	002	Benchmark
920.	Iron	3/31/2019	003	Benchmark
921.	Lead	3/31/2019	002	Benchmark
922.	Lead	3/31/2019	003	Benchmark
923.	Total Suspended Solids	3/31/2019	002	Benchmark
924.	Total Suspended Solids	3/31/2019	003	Benchmark
925.	Zinc	3/31/2019	002	Benchmark
926.	Zinc	3/31/2019	003	Benchmark
927.	Aluminum	6/30/2019	003	Benchmark
928.	Chemical Oxygen Demand	6/30/2019	003	Benchmark
929.	Copper	6/30/2019	003	Benchmark
930.	Iron	6/30/2019	003	Benchmark
931.	Lead	6/30/2019	003	Benchmark
932.	Total Suspended Solids	6/30/2019	003	Benchmark
933.	Zinc	6/30/2019	003	Benchmark
934.	Aluminum	9/30/2019	003	Benchmark
935.	Chemical Oxygen Demand	9/30/2019	003	Benchmark
936.	Copper	9/30/2019	003	Benchmark

937.	Iron	9/30/2019	003	Benchmark
938.	Lead	9/30/2019	003	Benchmark
939.	Total Suspended Solids	9/30/2019	003	Benchmark
940.	Zinc	9/30/2019	003	Benchmark
941.	Aluminum	12/31/2019	002	Benchmark
942.	Aluminum	12/31/2019	003	Benchmark
943.	Chemical Oxygen Demand	12/31/2019	002	Benchmark
944.	Chemical Oxygen Demand	12/31/2019	003	Benchmark
945.	Copper	12/31/2019	002	Benchmark
946.	Copper	12/31/2019	003	Benchmark
947.	Iron	12/31/2019	002	Benchmark
948.	Iron	12/31/2019	003	Benchmark
949.	Lead	12/31/2019	002	Benchmark
950.	Lead	12/31/2019	003	Benchmark
951.	Total Suspended Solids	12/31/2019	002	Benchmark
952.	Total Suspended Solids	12/31/2019	003	Benchmark
953.	Zinc	12/31/2019	002	Benchmark
954.	Zinc	12/31/2019	003	Benchmark
955.	Aluminum	3/31/2020	001	Benchmark
956.	Aluminum	3/31/2020	002	Benchmark
957.	Aluminum	3/31/2020	003	Benchmark
958.	Chemical Oxygen Demand	3/31/2020	001	Benchmark
959.	Chemical Oxygen Demand	3/31/2020	002	Benchmark
960.	Chemical Oxygen Demand	3/31/2020	003	Benchmark
961.	Copper	3/31/2020	001	Benchmark
962.	Copper	3/31/2020	002	Benchmark
963.	Copper	3/31/2020	003	Benchmark
964.	Iron	3/31/2020	001	Benchmark
965.	Iron	3/31/2020	002	Benchmark
966.	Iron	3/31/2020	003	Benchmark
967.	Lead	3/31/2020	001	Benchmark
968.	Lead	3/31/2020	002	Benchmark
969.	Lead	3/31/2020	003	Benchmark
970.	Total Suspended Solids	3/31/2020	001	Benchmark
971.	Total Suspended Solids	3/31/2020	002	Benchmark
972.	Total Suspended Solids	3/31/2020	003	Benchmark
973.	Zinc	3/31/2020	001	Benchmark
974.	Zinc	3/31/2020	002	Benchmark
975.	Zinc	3/31/2020	003	Benchmark
976.	Aluminum	6/30/2020	001	Benchmark
977.	Aluminum	6/30/2020	002	Benchmark
978.	Aluminum	6/30/2020	003	Benchmark
979.	Chemical Oxygen Demand	6/30/2020	001	Benchmark
980.	Chemical Oxygen Demand	6/30/2020	002	Benchmark
981.	Chemical Oxygen Demand	6/30/2020	003	Benchmark

982.	Copper	6/30/2020	001	Benchmark
983.	Copper	6/30/2020	002	Benchmark
984.	Copper	6/30/2020	003	Benchmark
985.	Iron	6/30/2020	001	Benchmark
986.	Iron	6/30/2020	002	Benchmark
987.	Iron	6/30/2020	003	Benchmark
988.	Lead	6/30/2020	001	Benchmark
989.	Lead	6/30/2020	002	Benchmark
990.	Lead	6/30/2020	003	Benchmark
991.	Total Suspended Solids	6/30/2020	001	Benchmark
992.	Total Suspended Solids	6/30/2020	002	Benchmark
993.	Total Suspended Solids	6/30/2020	003	Benchmark
994.	Zinc	6/30/2020	001	Benchmark
995.	Zinc	6/30/2020	002	Benchmark
996.	Zinc	6/30/2020	003	Benchmark
997.	Aluminum	9/30/2020	003	Benchmark
998.	Chemical Oxygen Demand	9/30/2020	003	Benchmark
999.	Copper	9/30/2020	003	Benchmark
1000.	Iron	9/30/2020	003	Benchmark
1001.	Lead	9/30/2020	003	Benchmark
1002.	Total Suspended Solids	9/30/2020	003	Benchmark
1003.	Zinc	9/30/2020	003	Benchmark
1004.	Aluminum	12/31/2020	001	Benchmark
1005.	Aluminum	12/31/2020	003	Benchmark
1006.	Chemical Oxygen Demand	12/31/2020	001	Benchmark
1007.	Chemical Oxygen Demand	12/31/2020	003	Benchmark
1008.	Copper	12/31/2020	001	Benchmark
1009.	Copper	12/31/2020	003	Benchmark
1010.	Iron	12/31/2020	001	Benchmark
1011.	Iron	12/31/2020	003	Benchmark
1012.	Lead	12/31/2020	001	Benchmark
1013.	Lead	12/31/2020	003	Benchmark
1014.	Total Suspended Solids	12/31/2020	001	Benchmark
1015.	Total Suspended Solids	12/31/2020	003	Benchmark
1016.	Zinc	12/31/2020	001	Benchmark
1017.	Zinc	12/31/2020	003	Benchmark
1018.	Aluminum	3/31/2021	003	Benchmark
1019.	Chemical Oxygen Demand	3/31/2021	003	Benchmark
1020.	Copper	3/31/2021	003	Benchmark
1021.	Iron	3/31/2021	003	Benchmark
1022.	Lead	3/31/2021	003	Benchmark
1023.	Total Suspended Solids	3/31/2021	003	Benchmark
1024.	Zinc	3/31/2021	003	Benchmark
1025.	Aluminum	9/30/2021	003	Benchmark
1026.	Aluminum	9/30/2021	001	Impaired waters

1027.	Chemical Oxygen Demand	9/30/2021	003	Benchmark
1028.	Copper	9/30/2021	003	Benchmark
1029.	Dissolved oxygen	9/30/2021	001	Impaired waters
1030.	Lead	9/30/2021	003	Benchmark
1031.	Total Suspended Solids	9/30/2021	003	Benchmark
1032.	Zinc	9/30/2021	003	Benchmark

1033. Schnitzer has failed to conduct required quarterly benchmark and annual impaired waters monitoring at the Concord-Sandquist Facility for the following pollutant criteria, on the following dates, and from the following outfalls:

Par. No.	**Pollutant Criteria**	**Monitoring Period End Date**	**Outfall**	**Monitoring and Reporting Requirement**
1034.	Aluminum	12/31/2016	001	Benchmark
1035.	Chemical Oxygen Demand	12/31/2016	001	Benchmark
1036.	Copper	12/31/2016	001	Benchmark
1037.	Iron	12/31/2016	001	Benchmark
1038.	Lead	12/31/2016	001	Benchmark
1039.	Total Suspended Solids	12/31/2016	001	Benchmark
1040.	Zinc	12/31/2016	001	Benchmark
1041.	Aluminum	9/30/2017	001	Benchmark
1042.	Aluminum	9/30/2017	001	Impaired waters
1043.	Chemical Oxygen Demand	9/30/2017	001	Benchmark
1044.	Copper	9/30/2017	001	Benchmark
1045.	Dissolved oxygen	9/30/2017	001	Impaired waters
1046.	Iron	9/30/2017	001	Benchmark
1047.	Lead	9/30/2017	001	Benchmark
1048.	pH	9/30/2017	001	Impaired waters
1049.	Total Suspended Solids	9/30/2017	001	Benchmark
1050.	Zinc	9/30/2017	001	Benchmark
1051.	Aluminum	12/31/2018	001	Benchmark
1052.	Chemical Oxygen Demand	12/31/2018	001	Benchmark
1053.	Copper	12/31/2018	001	Benchmark
1054.	Iron	12/31/2018	001	Benchmark
1055.	Lead	12/31/2018	001	Benchmark
1056.	Total Suspended Solids	12/31/2018	001	Benchmark
1057.	Zinc	12/31/2018	001	Benchmark
1058.	Dissolved oxygen	9/30/2019	001	Impaired waters
1059.	Aluminum	3/31/2020	001	Benchmark
1060.	Chemical Oxygen Demand	3/31/2020	001	Benchmark
1061.	Copper	3/31/2020	001	Benchmark
1062.	Iron	3/31/2020	001	Benchmark
1063.	Lead	3/31/2020	001	Benchmark

1064.	Total Suspended Solids	3/31/2020	001	Benchmark
1065.	Zinc	3/31/2020	001	Benchmark
1066.	Aluminum	6/30/2020	001	Benchmark
1067.	Chemical Oxygen Demand	6/30/2020	001	Benchmark
1068.	Copper	6/30/2020	001	Benchmark
1069.	Iron	6/30/2020	001	Benchmark
1070.	Lead	6/30/2020	001	Benchmark
1071.	Total Suspended Solids	6/30/2020	001	Benchmark
1072.	Zinc	6/30/2020	001	Benchmark
1073.	Aluminum	12/31/2021	001	Impaired waters
1074.	Dissolved oxygen	12/31/2021	001	Impaired waters
1075.	pH	12/31/2021	001	Impaired waters

1076. Schnitzer has failed to conduct required quarterly benchmark and annual impaired waters monitoring at the Manchester Facility for the following pollutant criteria, on the following dates, and from the following outfalls:

Par. No.	**Pollutant Criteria**	**Monitoring Period End Date**	**Outfall**	**Monitoring and Reporting Requirement**
1077.	Aluminum	12/31/2016	001	Benchmark
1078.	Chemical Oxygen Demand	12/31/2016	001	Benchmark
1079.	Copper	12/31/2016	001	Benchmark
1080.	Iron	12/31/2016	001	Benchmark
1081.	Lead	12/31/2016	001	Benchmark
1082.	Total Suspended Solids	12/31/2016	001	Benchmark
1083.	Zinc	12/31/2016	001	Benchmark
1084.	Aluminum	9/30/2017	001	Benchmark
1085.	Chemical Oxygen Demand	9/30/2017	001	Benchmark
1086.	Copper	9/30/2017	001	Benchmark
1087.	Iron	9/30/2017	001	Benchmark
1088.	Lead	9/30/2017	001	Benchmark
1089.	Total Suspended Solids	9/30/2017	001	Benchmark
1090.	Zinc	9/30/2017	001	Benchmark
1091.	Aluminum	12/31/2018	001	Benchmark
1092.	Chemical Oxygen Demand	12/31/2018	001	Benchmark
1093.	Copper	12/31/2018	001	Benchmark
1094.	Iron	12/31/2018	001	Benchmark
1095.	Lead	12/31/2018	001	Benchmark
1096.	Total Suspended Solids	12/31/2018	001	Benchmark
1097.	Zinc	12/31/2018	001	Benchmark

1098.	Aluminum	12/31/2019	001	Benchmark
1099.	Chemical Oxygen Demand	12/31/2019	001	Benchmark
1100.	Copper	12/31/2019	001	Benchmark
1101.	Iron	12/31/2019	001	Benchmark
1102.	Lead	12/31/2019	001	Benchmark
1103.	Total Suspended Solids	12/31/2019	001	Benchmark
1104.	Zinc	12/31/2019	001	Benchmark
1105.	Aluminum	3/31/2020	001	Benchmark
1106.	Chemical Oxygen Demand	3/31/2020	001	Benchmark
1107.	Copper	3/31/2020	001	Benchmark
1108.	Iron	3/31/2020	001	Benchmark
1109.	Lead	3/31/2020	001	Benchmark
1110.	Total Suspended Solids	3/31/2020	001	Benchmark
1111.	Zinc	3/31/2020	001	Benchmark
1112.	Aluminum	6/30/2020	001	Benchmark
1113.	Chemical Oxygen Demand	6/30/2020	001	Benchmark
1114.	Copper	6/30/2020	001	Benchmark
1115.	Iron	6/30/2020	001	Benchmark
1116.	Lead	6/30/2020	001	Benchmark
1117.	Total Suspended Solids	6/30/2020	001	Benchmark
1118.	Zinc	6/30/2020	001	Benchmark
1119.	Dissolved oxygen	9/30/2020	001	Impaired waters
1120.	pH	9/30/2020	001	Impaired waters
1121.	Aluminum	12/31/2021	001	Impaired waters
1122.	Dissolved oxygen	12/31/2021	001	Impaired waters
1123.	pH	12/31/2021	001	Impaired waters

1124. Where Schnitzer failed to conduct required quarterly benchmark monitoring due to adverse weather conditions, Schnitzer failed to take a substitute sample during the next qualifying storm event as required by the MSGPs.

THE FACILITIES' HARMS TO CLF'S MEMBERS

1125. CLF's members use the Merrimack River for drinking water, swimming, boating, fishing, aesthetic enjoyment, and observing wildlife.

1126. CLF's members use the South End Marsh Wetland Complex for birdwatching, aesthetic enjoyment, and observing wildlife.

1127. CLF's members cherish the Merrimack River and the South End Marsh Wetland Complex as places of natural importance, historical interest, and/or personal significance.

1128. CLF's members enjoy the experience of sharing the recreational and aesthetic values of the Merrimack River and the South End Marsh Wetland Complex with family and friends.

1129. The Facilities' discharges of pollutants into the Merrimack River and the South End Marsh Wetland Complex have degraded the health of the waterbodies and contributed to their impairments in a way that diminishes the use and enjoyment of the waterbodies by CLF's members.

1130. CLF's members are concerned about the health impacts of heavy metal pollution from drinking water sourced downstream from the Facilities.

1131. CLF's members are concerned about the health impacts of heavy metal pollution from direct contact with waters downstream from the Facilities.

1132. CLF's members worry about the potential health effects of being exposed to heavy metals and other pollutants in the Merrimack River while boating and fishing.

1133. CLF's members worry about the negative impact of heavy metals and other pollutants on their ability to enjoy observing wildlife on the Merrimack River and at the South End Marsh Wetland Complex.

1134. The presence of odor, unnatural color, scum, foam, and diminished water clarity adversely affect the aesthetic enjoyment of the Merrimack River and the South End Marsh Wetland Complex by CLF's members.

CLAIMS FOR RELIEF

Count I: Failure to Take Corrective Actions and/or AIMs Following Triggering Events

1135. Paragraphs 1 through 1134 are incorporated by reference as if fully set forth herein.

1136. The MSGPs require Defendants to take corrective action or additional implementation measures when the following triggering events occur: 1) the average of four quarterly sampling results exceeds the applicable benchmark value or when an exceedance of the four-quarter average is mathematically certain; 2) control measures do not adequately minimize discharges to meet applicable water quality standards; 3) a visual assessment shows evidence of stormwater pollution in the discharge; or 4) a facility inspection reveals that discharges are not adequately controlled.

1137. Following a triggering event, Defendants are required to 1) review and revise the Stormwater Pollution Prevention Plan to minimize pollutant discharges; 2) immediately take "all reasonable steps to minimize or prevent the discharge of pollutants until [it] can implement a permanent solution;" and 3) if necessary, take subsequent actions before the next storm event if possible and within 14 calendar days from the time of discovery.

1138. The average of four quarterly samplings results exceeded the applicable benchmark values or an exceedance of the four-quarter average was mathematically certain 131 times at the Concord-Poplar Facility, 78 times at the Concord-Sandquist Facility, and 78 times at the Manchester Facility.

1139. Upon information and belief, the control measures at the Facilities did not and do not currently adequately minimize discharges to meet applicable water quality standards.

1140. Quarterly visual assessments of discharge at the Facilities documented evidence of stormwater pollution five times at the Concord-Poplar Facility, four times at the Concord-Sandquist Facility, and five times at the Manchester Facility.

1141. Upon information and belief, facility inspections revealed that discharges were not adequately controlled at the Facilities.

1142. Schnitzer did not take corrective action or AIMs as required by the MSGPs following the triggering events listed in paragraphs 1138-1141 above.

1143. Upon information and belief, following the triggering events listed in paragraphs 1138-1141 above, Schnitzer did not review and revise the Stormwater Pollution Prevention Plans for the Facilities.

1144. Upon information and belief, following the triggering events listed in paragraphs 1138-1141 above, Schnitzer did not immediately take all reasonable steps to minimize or prevent the discharge of pollutants until it could implement a permanent solution.

1145. Upon information and belief, following the triggering events listed in 1138-1141 above, Schnitzer did not take subsequent actions as necessary before the next storm event if possible and within 14 calendar days from the time of discovery.

1146. In light of Defendants' history of violations, and their failure to take corrective action, Defendants will continue to violate this provision of the MSGPs in the future unless and until enjoined from doing so.

1147. Each day that Defendants have violated or continue to violate the corrective action and/or AIM requirement is a separate and distinct violation of the MSGPs and Section 301(a) of the Clean Water Act, 33 U.S.C. § 1311(a).

Count II: Failure to Use Control Measures to Minimize Pollutant Discharges

1148. Paragraphs 1 through 1134 are incorporated by reference as if fully set forth herein.

1149. The MSGPs require that Schnitzer select, design, install, and implement control measures "to minimize pollutant discharges."

1150. Schnitzer has failed and continues to fail to select, design, install, and implement control measures to minimize pollutant discharges.

1151. Upon information and belief, Schnitzer has failed to comply with the pollutant control measures required in Section 2.1 of the MSGPs, including but not limited to provisions related to minimizing exposure, good housekeeping measures, maintenance of control measures, leaks and spills, control of sediment discharge, and dust generation.

1152. Schnitzer has discharged pollutants in excess of the benchmark values in the MSGPs at least 112 times from the Concord-Poplar Facility, 71 times from the Concord-Sandquist Facility, and 68 times from the Manchester Facility.

1153. Each day that Defendants have violated or continue to violate the MSGPs' requirement to use control measures to minimize pollutant discharges is a separate and distinct violation of the MSGPs, Section 301(a) of the Clean Water Act, 33 U.S.C. § 1311(a), and 40 C.F.R. Part 451.

Count III: Unlawful Discharges Causing or Contributing to Violation of Water Quality Standards

1154. Paragraphs 1 through 1134 are incorporated by reference as if fully set forth herein.

1155. The MSGPs require that Defendants control its stormwater discharges "as necessary to meet applicable water quality standards of all affected states."

1156. The Facilities discharge into New Hampshire waterbodies.

1157. Schnitzer's discharges from the Facilities are required to comply with New Hampshire state water quality standards.

1158. The Facilities have caused or contributed to violations of New Hampshire state water quality standards contained in N.H. Code Admin. R. Env-Wq § 1703.01(b), (c), pertaining to the integrity of surface waters; fish, shellfish, and wildlife; and recreation.

1159. The Facilities have caused or contributed to violations of New Hampshire state water quality standards contained in N.H. Code Admin. R. Env-Wq § 1703.19, pertaining to biological and aquatic community integrity.

1160. The Facilities have caused or contributed to violations of New Hampshire state water quality standards contained in N.H. Code Admin. R. Env-Wq § 1703.03(c)(1), pertaining to substances that settle; float; produce odor, taste, or turbidity; or interfere with recreation.

1161. The Facilities have caused or contributed to violations of New Hampshire state water quality standards contained in N.H. Code Admin. R. Env-Wq §1703.07, pertaining to dissolved oxygen.

1162. The Facilities have caused or contributed to violations of New Hampshire state water quality standards contained in N.H. Code Admin. R. Env-Wq §1703.08(b), pertaining to benthic deposits in Class B waters.

1163. The Facilities have caused or contributed to violations of New Hampshire state water quality standards contained in N.H. Code Admin. R. Env-Wq § 1703.09(b) pertaining to oil or grease in Class B waters.

1164. The Facilities have caused or contributed to violations of New Hampshire state water quality standards contained in N.H. Code Admin. R. Env-Wq §1703.10(b), pertaining to color in Class B waters.

1165. The Facilities have caused or contributed to violations of New Hampshire state water quality standards contained in N.H. Code Admin. R. Env-Wq § 1703.12(b), pertaining to slicks, odors, or floating solids.

1166. The Facilities have caused or contributed to violations of New Hampshire state water quality standards contained in N.H. Code Admin. R. Env-Wq §1703.21(a), pertaining to toxic substances or chemical constituents.

1167. Every state surface water quality standard violation constitutes a separate and distinct violation of the MSGPs and the Clean Water Act.

1168. In light of Defendants' history of violations, and their failure to take corrective action, Defendants will continue to violate the MSGPs' prohibition against causing or contributing to the state water quality standards violations, including violations of each of the above-enumerated state water quality standards, unless and until enjoined from doing so.

1169. Each day, and for each pollutant parameter and each state water quality standard that Defendants have violated or continue to violate, constitutes a separate and distinct violation of the MSGPs and of Section 301(a) of the Clean Water Act, 33 U.S.C. §§ 1311(a).

Count IV: Failure to Comply with Monitoring and Reporting Requirements

1170. Paragraphs 1 through 1134 are incorporated by reference as if fully set forth herein.

1171. The MSGPs require Schnitzer to conduct quarterly benchmark monitoring for aluminum, copper, iron, lead, zinc, COD, and TSS.

1172. In the event that adverse weather conditions prevent the collection of a required quarterly stormwater sample, the MSGPs require Schnitzer "to take a substitute sample during the next qualifying storm event."

1173. Schnitzer is required to conduct impaired waters monitoring for its discharges from the Concord-Poplar and Concord-Sandquist Facilities for pH and mercury.

1174. Schnitzer is required to conduct impaired waters monitoring for its discharges from the Manchester Facility for aluminum, pH, phosphorus, mercury, and E. coli.

1175. Schnitzer has failed to conduct required quarterly benchmark monitoring at the Concord-Poplar Facility at least 195 times since the fourth quarter of 2016.

1176. Schnitzer has failed to conduct required annual impaired waters monitoring at the Concord-Poplar Facility at least six times since the fourth quarter of 2016.

1177. Schnitzer has failed to conduct required quarterly benchmark monitoring at the Concord-

Sandquist Facility at least 35 times since the fourth quarter of 2016.

1178. Schnitzer has failed to conduct required annual impaired waters monitoring at the Concord-Sandquist Facility seven times since the fourth quarter of 2016.

1179. Schnitzer has failed to conduct required quarterly benchmark monitoring at the Manchester Facility at least 42 times since the fourth quarter of 2016.

1180. Schnitzer has failed to conduct required annual impaired waters monitoring at the Manchester Facility at least five times since the fourth quarter of 2016.

1181. In light of Defendants' history of violations, and their failure to take corrective action, Defendants will continue to violate this provision of the MSGPs in the future unless and until enjoined from doing so.

1182. Each day that Defendants have violated or continue to violate the monitoring and reporting requirements of the MSGPs is a separate and distinct violation of the Permit and Section 301(a) of the Clean Water Act, 33 U.S.C. § 1311(a).

RELIEF REQUESTED

Plaintiff respectfully requests that this Court grant the following relief:

a. Issue a declaratory judgment, pursuant to 28 U.S.C. § 2201, that Defendants have violated and remain in violation of the Permit, Section 301(a) of the Clean Water Act, 33 U.S.C § 1311(a), and applicable regulations, as alleged in Counts I, II, III, and IV of this Complaint;

b. Enjoin Defendants from violating the requirements of the MSGPs, Section 301(a) of the Clean Water Act, 33 U.S.C. § 1311(a), applicable Clean Water Act regulations, and state water quality standards;

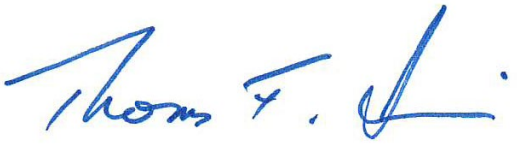
c. Impose civil penalties on Defendants as provided under Sections 505(a) and

309(d) of the Clean Water Act, 33 U.S.C. §§ 1365(a) and 1319(d), and its implementing regulations of 40 C.F.R. § 19.4;

d. Award Plaintiff's costs of litigation, including reasonable attorney and expert witness fees, as provided under Section 505(a) of the Clean Water Act, 33 U.S.C. § 1365(d); and

e. Grant such other relief as this Court may deem appropriate.

Dated: February 22, 2022



/s/

Thomas F. Irwin
New Hampshire Bar No. 11302
Conservation Law Foundation, Inc.
27 North Main Street
Concord, NH 03301
(603) 225-3060
tirwin@clf.org

Heather A. Govern, Esq.
Pro hac vice motion to be filed
Conservation Law Foundation, Inc.
62 Summer St.
Boston, MA 02110
(617) 850-1765
hgovern@clf.org

Chelsea E. Kendall, Esq.
Pro hac vice motion to be filed
Conservation Law Foundation, Inc.
62 Summer St.
Boston, MA 02110
(617) 850-1792
ckendall@clf.org

ATTORNEYS FOR PLAINTIFF